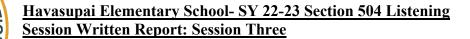
#### UNITED STATES DEPARTMENT OF THE INTERIOR

#### **Bureau of Indian Education**



The Bureau of Indian Education ("BIE") held its third Section 504 of the Rehabilitiation Act of 1973 ("Section 504") Listening Session for 2022-2023 School year with the Havasupai community on May 17, 2023.

CHITTIAS . KNOWLEDGE . LEAS This report documents the outcomes of the listening session and develops a plan for addressing any concerns, comments, and questions raised during the session related to Havasupai Elementary School's ("HES") Section 504 compliance.

#### **Background**

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The parties ("Parties") in Stephen C., et al. v. Bureau of Indian Education, et al., No. 3:17-cv-08004-SPL (D. Ariz.) entered into a partial settlement agreement ("Agreement") on September 24, 2020. The Agreement requires BIE to develop a Section 504 Compliance Plan ("Compliance Plan") against which an independent monitor will assess HES' Section 504 compliance. The Compliance Plan requires HES to hold triannual community Section 504 listening sessions beginning May 26, 2021, until the expiration of the Agreement.

For School Year 2022-2023, the third Listening Session was held on May 17, 2023, from 5pm-7pm in person at Havasupai Elementary as well as via Microsoft Teams. The session was held on a weeknight rather than Saturday in a continued effort to accommodate parents and community members' schedules and facilitate participation. BIE provided the Parties and the Tribe with a copy of the agenda (Attachment A) for the session, and distributed the flier in the community, over two weeks in advance of the session. The agenda included the following items:

- I. Greeting and General Introduction
- II. Introductions Who is present today
- III. Session Time--Commentary related to Section 504 at Havasupai Elementary School
- 1. Comments on Section 504 Eligibility or Referral Process
- 2. Comments on Discipline and Procedural Safeguards
- 3. Comments on Section 504 Services for Students with Disabilities and Placement
- 4. Other Section 504 Comments
- IV. Time for any written questions or comments that were received and any additional commentary
- V. Closing time, scheduling for next session

<sup>1</sup> The Parties include four named HES students, the Native American Disability Law Center ("NADLC"), BIE, and the United States Department of the Interior ("DOI").

BIE posted flyers with the agenda with the information on how to attend the listening session throughout the community, and BIE also advertised and offered door prizes and snacks to encourage participation. Notice of Section 504 Procedural Safeguards, program and contact for referral was mailed to households of all students enrolled in HES on May 4, 2023, and notices were posted in the community April 17<sup>th</sup>. Reminders were also sent home the week of the session with students. The meeting convened as scheduled at 5:00 pm local time, and due to technical difficulties at the school and audio issues, the session start time was delayed allowing for additional time for the school site to connect.

The following individuals attended the listening session:

- Felicia Siyuja, Havasupai Elementary School Secretary
- Sybil Hanna, Havasupai Tribal Council
- Carrie Sinyella, Havasupai Tribal Council Member
- Liotta Watahomagie, Community Member
- Lenore Knudtson, Independent Section 504 Monitor for HES
- Denten Robinson, Tribe's Attorney
- Austin Moore, NADLC Attorney
- Alexis de La Cruz—NADLC Attorney
- Maxine Roanhorse-Dineyazhe, EPA
- Lisa Puente Siyuja, Education Specialist
- Billy Vides, Teacher at HES
- Nick Miron, Teacher at HES
- Valencia Stinton, Teacher at HES
- Aku Freeman, Teacher at HES
- Jodee Jacobs, Contracted Special Education Teacher at HES
- Mary Sewell, Contracted School Counselor for HES
- Jionel Pierre, Special Education Teacher at HES
- Allison Troutman, Community Member
- Rayana Frazier, Community Member
- Shelton Manakaja, Tribal Council Member
- Orlando Manakaja, Tribal Community Member and School Custodian
- Dinolene Kaska, Tribal Community Member
- Dalla Wescogame, Tribal Community Member
- Deondro Uqualla, Tribal Community Member
- Ricki Siyuja, Tribal Community Member
- Katharine Ford, Interim HES Section 504 Coordinator/Education Specialist ADD-BOS
- Claudette Rushing, DOI Office of the Solicitor, Division of Indian Affairs, BIE Team

BIE began the session by reading the March 1, 2023, written report, which was published after the March 1, 2023, listening session.

#### Summary of Section 504 Related Concerns, Comments, and Questions Raised.

For purposes of this report, BIE will focus on concerns, comments, and questions raised related specifically to Section 504 and to HES' Section 504 services and program.

The following Section 504 comments, questions and recommendations were raised during the 3<sup>rd</sup> session for SY 2022-2023:

1) Can you clarify who the Section 504 Coordinator is right now?

Katharine Ford, an Education Specialist from the Albuquerque Associate Deputy Director's Office is assigned interim Section 504 Coordinator while school builds its permanent staff and capacity to coordinate the position locally.

2) Is the Section 504 Coordinator located at the school.

No.

3) If you (Katharine Ford) are not on site. How often do you visit the school and how do you get compliance?

For the School Year 22-23, the Section 504 Coordinator visited the school three separate weeks. A fourth scheduled visit was cancelled due to unavailable lodging.

As Section 504 Coordinator and in other support capacities with HES, Ms. Ford is in weekly contact with the staff, and oversees contracts that support staff on a weekly basis in the classroom. She also attended weekly schoolwide meetings with HES and BIE staff and leadership, to discuss any Section 504 needs and any concerns or questions that were presented from the school.

The Section 504 Coordinator works with the school principal to provide Section 504 guidance, and the school principal is ultimately responsible for programmatic compliance. School information is shared through weekly update meetings with BIE leadership and open communication channels.

4). Do you as 504 coordinator confirm compliance?

Section 504 compliance at HES is currently confirmed by the school 504 Coordinator and the BIE's Section 504 Coordinator and is also reviewed by the independent Section 504 Monitor, per the terms of the Stephen C. Section 504 Settlement Agreement.

5) How many visits did the coordinator make to Supai Village this school year? *See question #3 above.* 

6) What paperwork needs to be complete for a student on a 504 plan?

The Bureau of Indian Education requires that Section 504 forms must be completed as needed, in accordance with the legal requirements found in the applicable chapter of the Indian Affairs Manual, which is: 30 IAM Chapter 15- Section 504 of the Rehabilitation Act of 1973.

This information can be found here: <a href="https://www.bia.gov/sites/default/files/dup/assets/public/raca/manual/pdf/30-iam-15\_section-504-of-the-rehabilitation-act-of-1973">https://www.bia.gov/sites/default/files/dup/assets/public/raca/manual/pdf/30-iam-15\_section-504-of-the-rehabilitation-act-of-1973</a> final signed 508.pdf

The IAM chapter and other 504 forms are also posted on the school website here: https://www.havasupaies.com/programs.

7) Are the teachers completing the [504] paperwork [that is] required?

This question is unclear, so BIE is unable to provide a complete response. To the best of our knowledge, all school teaching staff are completing the needed Section 504 paperwork, as required under the applicable rules found in 30 IAM Chapter 15- Section 504 of the Rehabilitation Act.

8) Do you as the coordinator meet weekly, bi-weekly, monthly?

The Section 504 Coordinator meets weekly with the school principal and the HES BIE administrative team and is also available to the school and community members on an as needed basis.

9) [Unclear audio] ...Important as we talk about the laws and the rules---but what if you as the coordinator determine that the requirements for 504 are not being followed?

The Section 504 Coordinator informs the school principal and BIE administration about any issues at the school. If the Coordinator determines issues with Section 504 at the school, she may offer training, programmatic revisions, or technical assistance as needed.

10) [Referring to the prior 2022-2023 Section 504 listening session written reports]: Someone mentioned that they read about regular meetings with the Tribal council. They said they do not recall any meeting [between the school and Tribal council]. The community member stated that this answer [in the written report] should be clarified. The community member shared that they sit on the Tribal Council, and they feel that this written response feels untrue to them.

BIE reviewed the March written report and found this text, from the March report: "What is the average attendance at HES? Can attendance and truancy information be shared with the tribal council regularly?"

Additionally, in the March 2023 Session report, it is stated that Council members expressed interest to help with truancy issues.

A collaboration meeting will be scheduled with the Tribe and BIE leaders in August of 2023, to discuss improving student attendance and other concerns for the school.

# 11) Are you getting any input from teachers if this [Section 504] is working well?

Limited Section 504 input was provided by teachers at this time; however, teachers are engaged in ongoing training and support. In the fourth quarter of the school year, the 504 Coordinator did receive more student referrals and feedback from teachers regarding the school's 504 program. Additionally, schoolteachers and staff attended this listening session and shared their concerns about the school's 504 program.

### 12) We don't see [Section 504] outreach for parents or for the community.

HES has provided opportunities for Section 504 outreach throughout the school year. First, HES held three Section 504 community listening sessions, which were held on weekday evenings with childcare options provided to families, in order to facilitate attendance. HES also provided meals or refreshments and door prizes at each listening session, to further engage community members. HES posted flyers in the Village, and information was also sent home to each household. The school also published written reports after each Section 504 listening session, which were posted on the school website and distributed to the Tribal Council.

Other Section 504 outreach activities this year included an in-person Family Night and Section 504 community training, which was held on December 1, 2023. This Family Night included childcare and a presentation by the school's Section 504 Coordinator on Meeting Student Needs at HES. The Coordinator discussed Section 504 and engaged with the community.

HES is open to other suggestions for meaningful outreach ideas from parents and the community regarding Section 504. The BIE and HES remain committed to working with the Havasupai community for the benefit of the school, the Tribe, and its students.

13) Who would we go to for information about Section 504. Is this information out there? Is the terminology clear?

The Section 504 Coordinator is available via phone, email or meeting, and the Coordinator's contact information has been posted on community bulletin boards several times a year on Section 504 Listening Session Materials; Section 504 Coordinator information and all Section 504 documents are also available on the school website, www.havasuapies.com; and the Section 504 Procedural Safeguards are sent home with students each year.

As noted above, Havasupai Elementary School has also provided numerous listening sessions and a community outreach night to improve understanding of Section 504. Additionally, Section 504 Listening Session written reports were provided three times this school year and included information about Section 504. These written reports are posted on the school website and delivered to stakeholders and the Tribal Council

14) Is the principal involved in the Section 504? Is he involved after the session?

The principal has received Section 504 training and is familiar with the requirements set forth in 30 IAM Chapter 15.

15) Where is the 504-file held?

Any hard copy 504 files are held in fireproof, locked file cabinets in the counseling office. Additionally, any 504 plans are uploaded in the Native American School Information System (NASIS), after completion.

16) Are we using special education teachers to be general education providers and what impact does that have on Section 504 services?

The applicable Section 504 legal requirements are found in 30 IAM Chapter 15. These requirements do not speak to general staffing matters for certified staff.

17) Can the Section 504 coordinator or the school provide statistics on the service hours provided under 504?

All HES students currently identified as having disabilities and in need of services currently also qualify under the Individuals with Disabilities Education Act (IDEA) and are serviced through an Individualized Education Program (IEP). As such, there is no 504 specific data.

- 18) Are all Section 504 referrals being considered or are they being turned away? *All Section 504 referrals are considered, and evaluation protocol is followed.*
- 19) Who does the Section 504 coordinator report to?

The school Section 504 Coordinator reports to the school principal. There is also a national Section 504 Coordinator for all BIE schools, the BIE Section 504 Coordinator.

20) Will the students being referred for Section 504 referrals get the same assessment for IDEA?

Each referral and assessment will depend on the needs of the individual student and their unique disability related concerns. In some instances, there could be overlap between IDEA and 504,

for particular forms of assessment (speech language, occupational therapy, cognitive testing, etc.). However, the general legal requirements for referral and evaluation standards are different under the IDEA.

# 21) How is it determined if they are going into a 504 plan or an IEP, by the team

The student assessment team uses the data provided to determine impact, eligibility, and placement. A student evaluation team may also determine the appropriate sort of evaluations for a student, based on their needs. Additionally, a Parent or Guardian may request an evaluation specifically under either IDEA or Section 504.

# 22) What is the difference between an IEP and Section 504 plan?

	IEP	Section 504 Plan
At a Glance The Law Applied	A map or plan for a student's individual special education experience at school, which is based on the student's individual needs, and an eligibility in one of 13 specific disability categories. This IEP plan will include many legally required elements for a qualified student, such as annual goals, progress reporting requirements, and any needed special education and/or related services.  The Individuals with Disabilities Education Act (IDEA) which is a federal special education law for children with disabilities.	A map or plan for how the school will provide any needed accommodations, modifications, and/or supports so that a student with a disability may receive an equal opportunity to access general and special education. Disability is defined more broadly under this law and includes any physical or mental impairment that substantially limits one or more major life activities.  Section 504 of the Rehabilitation Act of 1973 (Section 504)  A federal civil rights law to prevent discrimination against people with
Summary of What Each Plan Does	Provides individualized special education and related services in the least restrictive environment (LRE) to meet a student's unique needs at no cost to the family.	disabilities.  The Section 504 team must tailor a 504 Plan to the individual needs of the student with the goal of providing the student with an equal opportunity as that of nondisabled peers, to gain the same benefits of the education program in an

Who is Eligible?  Who Designs the Plan?	For IDEA and IEP:  a) A child has one or more of the 13 disabilities listed in the Individuals with Disabilities Education Act, like specific learning disabilities, Autism, Other Health Impairment, and others. b) The disability must affect the child's educational performance and/or ability to learn and benefit from the general education curriculum. The child must require specialized instruction, because of the disability, in order to make progress in school.	appropriate setting, in the least restrictive environment (LRE).  504 Plan:  a) A child that has any qualified disability. Section 504 covers a wider range of disabilities. b) Section 504 has a broader definition of a disability than IDEA and states that the disability must substantially limit one or more major life activity. This includes activities such as: learning, reading, communication, and thinking. A child that does not qualify for an IEP may qualify for a 504 plan.  Section 504 also protects individuals who have a record of such an impairment, and individuals who are regarded as having such an impairment. While these individuals may not qualify for Section 504 Plans, they must still be protected with respect to disability-based discrimination and/or harassment.
who besigns the rian;	following legally required participants: the parent/guardian; a special education teacher, a general education teacher, the school psychologist or specialist to interpret evaluation results,	requires that a Section 504 team must consist of: parent/guardian, teacher, and an administrator.

	and an administrator or district representative with authority over special education services. Other individuals with knowledge of the student may be a part of the IEP team.	
What's in the Plan?	An IEP sets learning goals and outlines the services the school provides in a written document.  • How the child is currently doing in school present levels of academic and functional performance • Annual Education Goals for the child and how the school will track progress • The services the student will get which may include special education, related, supplementary, and extended school year services (if needed). • The timing of services when they start, how often they occur, and how long they last. • Accommodations—changes to the student's learning environment • Modifications—changes to what the student is expected to learn or know • How the student will participate in standardized tests • How often the student is included in general	There is not a standard 504 plan, but a 504 Plan generally includes the following:  • Specific accommodations, auxiliary aids and services, or modifications, for the student to equitably access general and special education programs • Outlines the parties that are responsible to provide each service • Name or title of the person responsible for ensuring the plan is implemented

	education classes and what supports, if any,	
	are needed for the student to participate	
	in extracurricular	
Consent and Notice	school activities Prior Written Notice is	The school must notify
	required when a school wants to change a student placement	families about an evaluation or a "significant change" in
	or service or when a school	placement.
	refuses to change a placement or service, after parental	A parent or caregiver's
	request to do so. Notice is	consent is required for the
	also required for IEP meeting and evaluations.	school district to evaluate a child for Section 504 Services
	IDEA offers many rights to parents and guardians; these	If the team determines the
	are often called Procedural	student qualifies for a 504
	Safeguards. BIE's IDEA Procedural Safeguards may	Plan, they must put a plan in writing, and provide it to the
	be found at:	Parent or Guardian within
	https://www.bie.edu/landing- page/special-education	three days.
	A parent/guardian must	
	consent in writing for the	
	school to evaluate a child and provide consent for initial	
	IDEA services in writing.	
Funding	Students receive these services at no cost and	Students receive these services at no cost, but the
	schools receive additional	school does not receive extra
	funding for students with IEPs in the Special Education	funding for students with 504 plans.
	Program.	IDEA funds cannot be used
		to serve students with 504 plans.
How often is the Plan	The IEP team must review	The BIE 504 team must also
Revised or Reevaluated?	the plan at least once per year and complete a reevaluation	meet on an annual basis, to determine if a reevaluation is
	of qualified students every three years, to determine	needed and to review and make any needed updates to a
	in so years, to determine	make any needed apadies to a

whether special education services are necessary and if IDEA eligibility should be continued for the student.	504 Plan. The prior year's Section 504 Plan will be reviewed at this time.
	A Section 504 reevaluation must also occur at least once every three years, in BIE schools.

23) Have any of the MTSS interventions taken place this school year?

MTSS is a continually developing process at HES, due to evolving staffing and capacity concerns. BIE is taking a number of steps to increase staffing at the school next year, including advertising for additional educational positions and seeking new contract staff and by providing additional financial incentives to HES staff.

24) When the teachers first come here do they see the accommodations for each IEP or for Section 504?

Yes. BIE requires that all teachers and service providers must be shown the IEP or 504 Plan for each of their eligible students and be informed of their specific duties and responsibilities related to implementation for each child.

25) Have any of the teachers been trained on the Section 504 process, do they know what it entails and how to implement per the services to be provided?

Yes, Staff training was provided in August of 2022 and May 26, 2023, specific to the Section 504. All HES teachers will engage in ongoing training for the upcoming school year to support and build upon their Section 504 practices and understanding.

26) Is there a strategy for grandparents or parents that first language is not English to guide them on the law and Section 504 and perhaps having a translator that can explain the process is there anything of this nature to them?

The school has staff members who can provide interpretation or translation to grandparents or parents, if needed. Community members may stop by the front office of the school at any time, to learn more about Section 504 in English or in the Havasupai language. BIE would also welcome working with any interested members of the Tribe to create translated special education and Section 504 materials. Any interested translators may contact Katharine Ford at <a href="mailto:katharine.ford@bie.edu">katharine.ford@bie.edu</a> to discuss requested translation work.

27) Are they (two graduating students) free of the IEP or Section 504? Are they free of 504 needs if they go to another school? Related question: Thinking about the graduates: Are they on a 504 plan or special education, if so, and the school out there finds out will the school be in trouble for there not being services?

HES cannot share confidential student information or personally identifiable student information, without the consent of their legal guardian(s). However, Section 504 requires that all schools that receive funding from the federal government, or that are federally operated, must comply with Section 504, pursuant to 29 U.S.C. § 794 (Section 504). As such, all BIE operated schools must comply with the requirements of Section 504 and the Department of the Interior's implementing regulations at 43 C.F.R. 17.501-17.570 (Subpart E).

28) What concerns, if any, did the coordinator have following the onsite visits to HES?

Recommendations for improvement were provided to the school principal after each onsite visit. The recommendations were global in nature. The Coordinator provided one-to-one training with staff and three MTSS trainings during the 2022-2023 school year. Recommendations also included the specific suggestions noted below.

29) What suggestions does the coordinator have to improve the 504 services at HES?

The current school 504 Coordinator makes the following suggestions to improve the 504 system and practices at the school, during the 2022-2023 school year:

- Continued and ongoing training for staff on Section 504 and data collection
- Continue to train on, use, and support the Multi-Tiered System of Supports Model (MTSS) for school wide screenings and intervention
- Implement MTSS tiers of support to students in need
- Engage in trauma informed training for school administrators and teaching staff
- School staff training in Conflict De-escalation
- 30) Are the teachers here allowed to ask questions?

All stakeholders are encouraged to speak if they would like and they may also ask questions. BIE is required to hold community listening sessions, and teachers are a valued part of the school community.

31) Teachers request more training on the 504 processes.

To fulfill this request, an additional Section 504 training was provided to the HES staff on May 26, 2023.

32) One commenter remembers examples in previous training/session of what qualifies students for 504 like diabetes or different disabilities. What if a student here has poor eyesight? It is very hard for our students to get glasses, and I see them struggling throughout the entire school year. If they get glasses, they lose them, and their learning is affected when they do not have glasses. Can that be a part of it? Can the school include vision in that?

Limited eyesight and vision challenges can be included as a disability under Section 504, based on a student's individual needs. Some students may also qualify as visually impaired under the IDEA. If a student needs vision supports or services to access general or special education, a Section 504 team or IEP team may determine that the student needs services or supports to access an appropriate education, which may include vision tools, vision therapy, or for some students, glasses. These decisions will be made based on individual student needs.

Additionally, the school collaborates with Indian Health Service (IHS) to provide annual general vision screenings for enrolled students at the school. If the community believes that more support is needed for students to access glasses after the annual vision screening, HES would welcome any ideas or collaboration with the Tribe to help more students access glasses at school.

33) What about the 45-day screening is that happening? I think I saw it happening will that continue?

Yes, hearing and vision screenings are provided at HES and will continue to be provided in the future. HES will offer hearing and vision screening annually for all students. Legal deadlines for screenings will be followed as appropriate under the IDEA and Section 504.

34) Why are these listening sessions coordinated this way instead of having the answers given when asked?

These Section 504 sessions are legally required pursuant to an underlying settlement agreement. The agreement as written requires that the sessions are specifically meant to be listening sessions, which are a time for BIE to hear from the community.

BIE understands that the community would like to have more engagement with school leaders and would like to have dialogue about the school. BIE has informed the school administrators of this request for more discussion and community engagement at future general school meetings.

#### Section 504 Recommendations made by Stakeholders at 504 Listening Session:

- 1) Several community members stated that the school principal should be at Section 504 listening sessions, and the community members expressed a desire for the principal to hear directly from the community.
- 2) One commentator said that a special education teacher cannot be the main school contact, and there is very limited staff [physically at the school]. They said the certified teachers are wearing many hats [at the school].
- 3) Several community members wanted more information on the IDEA and IEPs at the Section 504 Listening Sessions. One community member shared that they thought that parents should be able to "pick" an IEP or a Section 504 Plan.
- 4) Someone said, "In the future we want the coordinator on site with the principal and we want answers."
- 5) Several community members stated that they don't like the 504 listening session structure and said that the listening sessions need to be more transparent and more equal.

#### **Attachments:**

Attachment A- Flier and Agenda for May 2023 Section 504 Listening Session Three

Attachment A

# **Havasupai Elementary School**

# Section 504 Listening Session 2022-2023 SY Session 3 - May 17, 2023

- I. Greeting and General Introduction
- II. Introductions Who is present today?
- III. Read Last Written Report and Address any Concerns from Last Session
- IV. What are your concerns, if any, with Section 504 services at Havasupai ES?
- V. What topics would you like for this group to address in the future?
- VI. Time for any written questions or comments that were received and open mic time for any other thoughts or concerns from the group.
- VII. Closing time and discuss the time and plan a date for the next listening session.

Location: In Person at the School or Via MS Team Online/Phone Option

**Time:** 5:00-7:00 MST

Call- In: +1 (202)-640-1187

Participant code/ Phone Conference ID: 153 493 532#

Online Access via MS Teams: Meeting ID: 216 597 823 104 Passcode: ug8nfc

Email <u>claudette.rushing@sol.doi.gov</u> for an email invite or with any access issues for the MS teams meeting.

# **504 Fast Facts for Families**



Section 504 is a federal civil rights law that protects people with disabilities and ensures that they have <u>equal access</u> to educational programs, compared to people without disabilities. We want to hear from you about disability related issues in the community and school, share your experiences and ideas, to help all children access the educational program equitably.

You may also submit any written questions or comments to: <a href="mailto:katharine.ford@bie.edu">katharine.ford@bie.edu</a> any time before May 17, 2023.

Please join us for some fun and community engagement!

<u>Refreshments</u> and <u>Door Prizes</u> will be available for all inperson attendees!

Child Care/Game night will be offered for children