

UNITED STATES DEPARTMENT OF THE INTERIOR

Bureau of Indian Education



Havasupai Elementary School- SY 23-24 Section 504 Listening Session Written Report: Session One

The Bureau of Indian Education (“BIE”) held a Section 504 of the Rehabilitation Act of 1973 (“Section 504”) Listening Session for the 2022-2023 School year with the Havasupai community on September 13, 2023. 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. This is the last listening session pursuant to the 2020 Settlement agreement, *Stephen C., et al. v. Bureau of Indian Education, et al.*, No. 3:17-cv-08004-SPL (D. Ariz.)

Background

The parties (“Parties”)¹ 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 required HES to hold triannual community Section 504 listening sessions beginning May 26, 2021, until it the Agreement’s expiration on September 24, 2023.

The Listening Session was held on September 13, 2023, from 5pm-7pm in person at Havasupai Elementary as well as via Microsoft Teams. The session was held on a weeknight with childcare available, 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, in advance of the session, on August 30th 2023, with approval from stakeholders to waive the notice deadline to accommodate an in-person session during the Section 504 Coordinator’s site visit. The agenda included the following items:

- I. Greeting and General Introduction
- II. Introductions – Who is present today?

¹ The Parties include four named HES students, the Native American Disability Law Center (“NADLC”), BIE, and the United States Department of the Interior (“DOI”).

- III. Review of Previous Listening Session Report May 2023
- IV. 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, door prizes.

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 dinner to encourage participation. Notice of Section 504 Procedural Safeguards and program and contact for referral were posted in the community August 30th, 2023. Reminders were also sent home the week of the session with students. The meeting convened as scheduled at 5:00 pm local time, and allowed time for participants to arrive, get meals and eat.

BIE documented the following individuals as having attended the listening session:

- Ritta Uqualla, Community Member
- Falcon Watahomigie, Community Member
- Rayana D. Frazier, Community Member
- Dr. Valencia Stinson, HES Teacher (Covered Child Care Classroom)
- Shelly Spence, HES Teacher
- Tammy Grounds, Community Member
- Anya Uqualla, Community Member
- Colleen Kaska, Community Member and HES Native Language and Culture Teacher
- Felicia Siyuja, Havasupai Elementary School Secretary
- Roland Manakaja and granddaughter
- Tiah Paya, Community member
- Deloese Watahomigie, Community member
- Dalla Mae Uqualla, Community member
- Lenore Knudtson, Independent Section 504 Monitor for HES
- Lisa Puente Siyuja, Education Specialist
- Patrick Blevins, University of New Mexico Center for Development and Disability BIE Consultant
- Felicia Nevarez, University of New Mexico Center for Development and Disability BIE Consultant
- Nick Miron, Teacher at HES
- Alexis De La Cruz, Native American Disability Law Center
- Martina Gast, Attorney
- Jionel Pierre, Special Education Teacher at HES
- Douglas Barringer, HES Principal

- Allison Troutman, Community Member
- Katharine Ford, Interim HES Section 504 Coordinator/Education Specialist ADD-BOS
- Jennifer Wiginton, DOI Office of the Solicitor, Division of Indian Affairs, BIE Team

BIE began the session by introducing the in-person and virtual attendees, reading the written report from May 17, 2023, and reading the answers from the last listening session's questions about Section 504.

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 session for SY 2023-2024:

1. If a student has ADHD (attention deficit hyperactivity disorder) do they get a section 504 plan or an IEP and how long does the process take?

A student with a disability that impacts their access to education is covered under IDEA and/or section 504 and a parent, guardian or teacher that suspects or knows of a disability can contact the school principal, section 504 coordinator, or special education department to request an evaluation. The Individuals with Disabilities Education Act 60-day timeline indicates that the Eligibility Determination meeting be conducted within 60 days of receiving parental consent for the evaluation. There is a referral form for Section 504 on the havasupaies.com website. In the meantime, the student can receive reasonable and appropriate interventions and accommodations through the Multi-Tiered System of Supports process. See Attachment B with Chart: What is the difference between an IEP and Section 504 plan?

2. What about individuals that have trauma from the environment that they grew up in, can they get evaluated and get an IEP or Section 504 plan and how would they get services?

Whether or not a student has a qualifying disability under IDEA or Section 504 is determined on an individual basis and whether or not a student has a qualifying disability resulting from trauma would be a decision made by a multi-disciplinary team familiar with the student.

3. In the written report from last May, there is mention of training for staff. Is there a timeline for Trauma Informed approach training and de-escalation training for staff and admin mentioned in the previous report?

HES administration has taken into account these needs for the staff and will identify appropriate training opportunities for staff in these areas.

4. Can parents request that their students be evaluated for 504, or IDEA, IEP and what is that process? I feel like every year the parents rely on the teachers to recommend and with high teacher turnover it is hard to focus on the students that might need extra services or need to be referred.

A parent, guardian or teacher that suspects or knows of a disability can contact the school principal, section 504 coordinator, or special education department to request an evaluation. The Individuals with Disabilities Education Act 60-day timeline indicates that the Eligibility Determination meeting be conducted within 60 days of receiving parental consent for the evaluation. There is a referral form for Section 504 on the havasupaies.com website. In the meantime, the student can receive reasonable and appropriate interventions and accommodations through the Multi-Tiered System of Supports process. See Attachment B with Chart: What is the difference between an IEP and Section 504 plan?

5. Is this session for only 504 concerns?

All comments and concerns from the Section 504 listening sessions are reviewed. Additionally, HES will engage with stakeholders via other meetings and forums, so that parents and community members can have more dialogue with school staff.

Further, as required by the underlying Section 504 Compliance Plan, HES must respond to all concerns related to Section 504 that are raised during each listening session in writing, in a written report that is sent to the Tribe. These written reports are publicly available online here: [SECTION 504 | Havasupai Elementary \(havasupaies.com\)](http://SECTION%20504%20|%20Havasupai%20Elementary%20(havasupaies.com)). They are also sent to the Tribal Council.

Some concerns raised in the most recent Listening Session as well as previous sessions did not pertain to Section 504 and accordingly will not be covered in the Section 504 written reports. Although these general school concerns are not addressed in the Section 504 written reports, the comments were all received and reviewed by HES leadership.

BIE and HES value input from all Havasupai community members and commit to working together for the benefit of HES and its students.

HES administration will work with the community, parents, and the Tribal Council to listen to general comments and concerns about the school throughout the school year, not just during the Section 504 Listening Sessions.

6. If a parent can ask for an IEP or 504 evaluation, I believe that I asked that question many listening sessions before, to not have a 504-plan session, but to have an IEP process session so parents can know what to do for an IEP.

BIE understands that the community would like to have more engagement and dialogue about the school and has informed the school administrators of this request for community engagement

and meetings with more dialogue and interaction. The school agrees to hold an information session on IDEA before the end of the school year.

7. These children that are disabled how long can you deal with the problems that they have before they are suspended for raising hell or doing something that irate[s] the instructor. I remember that you couldn't suspend those (disability) kids. Is that still the problem here in the elementary setting? Every month we used to meet with the principal, and they would report on tardies, attendance problems and I want to go extreme and have you think about: If all kids enrolled in elementary school were referred to 504 or IEP situation do you have the budget and staff to handle them and understand those problems? I would like to know how far along this program has been coming.

Havasupai Elementary School Follows specific steps in discipline referrals for Students with disabilities. Please refer to 30 Indian Affairs Manual 15, Section 504 of the Rehabilitation Act of 1973, Page 21 for information on Section 504 disciplinary requirements, found through the following link to the IAM:

https://www.bia.gov/sites/default/files/dup/assets/public/raca/manual/pdf/30-iam-15_section-504-of-the-rehabilitation-act-of-1973_final_signed_508_0.pdf

The BIE has sufficient funds to provide services to any student that requires Special education services. BIE has a legal obligation to provide all services required pursuant to Section 504 and IDEA. Continuous efforts are being made in recruit and maintain necessary staff to provide services.

8. Is it safe to have so many students in one classroom that are under IEP or 504 plans, is it safe for them to be in large classes only taught by one teacher with no sped teacher in the classroom?

The environment necessary to provide FAPE under IDEA or Section 504 is dependent on individual student needs. Any safety concerns should be discussed during the IEP meeting or Section 504 meeting and addressed in the IEP or Section 504 Plan.

9. Is there funding for Section 504? Who do you go to, to get funding?

No, Section 504 is not a funded program. Schools provide accommodations and modifications under Section 504 without additional funding.

10. Students that have behavior problems-can they be referred for counseling or Section 504?

Any student requiring a higher level of intervention for Behavior concerns is recommended to be assessed through the Student Assessment/Intervention Team with a Functional Behavioral Assessment and Behavior Intervention Plan, if needed, to address the underlying behaviors and a system developed to assist the student with any behaviors at the school, if determined necessary by the Multi-Tiered System of Support (MTSS) team, regardless of a student's

disability status. The Student MTSS Assessment team process will not be used to delay or deny any needed referrals for evaluation under Section 504 or the IDEA, and if a student is suspected of having a disability, the proper special education referral and evaluation process shall be followed.

HES works with Indian Health Service (IHS) and the Tribe, to assist students with scheduling counseling services to students through Spectrum Health and IHS. The school has also been working to hire a Full-Time counselor to reside in Supai and work with students who need services. In the absence of an HES school counselor, the Referral for Counseling Services may be made to the Principal and the Student Intervention Team to process. If there is a determined need for behavior health provider service, with the participation and consent of the parent or guardian, the school will begin the referral process to IHS through a release of information form and a school referral form.

Non Section 504 Related Recommendations/Questions by Stakeholders:

Additionally, a number of general comments were shared at the listening session that do not relate to Section 504. BIE does not discount these concerns; however, this report will only focus on the concerns, comments, and questions raised that directly relate to HES' Section 504 compliance pursuant to section II(B) of the Settlement Agreement, signed on September 24, 2020.

- 1) If you have one (student) that is at head start under an IEP program, when they come over to the BIE what process do they follow or does the paper just come?
- 2) I notice a classroom that there is a chair that is only a board and a stick, and I asked about it and (wiggle chair). Can we have some more of those in the classroom, I don't know if they are used for punishment.
- 3) When a child is refusing to do work, what kind of disciplinary action do they take? When I was in school, we had to stay at school afterschool or in for recess or stay afterschool so I can learn from my mistakes. I have an 8th grader, 5th grader and 2 stepchildren and I do not see any disciplinary action.
- 4) Combined classes might make more discipline problems and we need more teachers. The 7/8 is too big. My kids come hope and talk about how other students aren't listening and my girls don't deserve to have those discipline problems. She appreciates the classroom teacher for doing his best and being here.
- 5) Do children have incentives like programs in each classroom that if they see a kid pick up a paper that another student threw up?
- 6) Do they have PBIS? Something that worked before: the kids that were misbehaving they were left out and then the council had a meeting with them. We treated them with something good and we told them if they do something good they get to go on a trip. We focused on the kids creating negative vibes and we did something good for them to do a cultural activity and it seemed to work for them and they tried to be good for the rest of the week.
- 7) Keep building the incentive and those kids started to turn. We had the funding and door prizes and a talent show and community nights and this place was packed. We brought in

culture, gentleness, kindness, love, keep the problems at home and be professional and it can work likewise with young people.

- 8) Is there a PTA? Is there a school board? Where is the community involvement?
- 9) We used peer pressure to get negative people out or in control.
- 10) Is the problem the leadership is not involved? How do we involve the tribe and the school leadership?
- 11) Maybe if there was a kitchen and a cooking club, the kids would have incentives to stay in school and get to high school? Recommends activities like Bird singing, Dancers.
- 12) Worried that all our [community] children are being left behind.
- 13) Cleaning aspect: can the upper grades clean the cafeteria or help with serving or replenish and that gives them responsibility during the day that this is there school, and they help out to make it a better place for them?
- 14) How many special ed teachers does the school have at this time?
- 15) Can the school have an IDEA coordinator?
- 16) Can the school have IDEA learning sessions?

Attachments:

Attachment A- Flier and Agenda for Section 504 Listening Session One SY 23-24

Attachment B-Chart: What is the Difference between an IEP and Section 504 Plan?

Section 504

Listening Session

– September 13, 2023

- I. Greeting and General Introduction
 - II. Introductions – Who is present today?
 - III. Read Last Written Report and Address any Concerns from Last 504 Listening Session
 - IV. What are your if questions if any, with Section 504 services at Havasupai Elementary School?
 - 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.** Please submit written comments to Katharine.ford@bie.edu with the subject line: HES 504
- Written Commentary no later than September 13, 5pm 2023.Closing time.

Location: In Person at the School or Via MS Team/Phone Option **Time:** 5:00pm-7:00pm MST

Call- In: +1 202-640-1187, 892678553#

Participant code/ Phone Conference ID: 892 678 553#

504 Fast Facts for Families



What is a 504 Plan?

A 504 plan is a plan of accommodations for an individual with a disability that substantially limits one or more major lifefunction(s), therefore impacting the individual’s ability to learn.

Who writes a 504 Plan?

A team of individuals consisting of at least: a parent, the student if appropriate, the student’s teacher, a person knowledgeable about the evaluation data, the school’s Section 504 Coordinator, and a school administrator.

What does a 504 plan do?

A 504 plan is part of a federal law. It is a plan for individuals to gain equal access to the educational program. In the educational setting, the 504 plan is usually a list of actions that the school and teachers take or implement for a student.

Are a 504 and an IEP the same thing?

No, they are different documents and governed by different laws and rules. Come discuss and learn more!

Food and Door Prizes will be available for all in-person attendees!

Child Care/Game night will be offered for children so their families can participate!

Note: We strive to host inclusive, accessible events that enable all individuals, including individuals with disabilities, to engage fully. To request an accommodation or for inquiries about accessibility, please contact Katharine Ford, at katharine.ford@bie.edu or (505)377-1554.

ATTACHMENT B

Chart: What is the difference between an IEP and Section 504 plan?

	IEP	Section 504 Plan
At a Glance	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.	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.
The Law Applied	The Individuals with Disabilities Education Act (IDEA) which is a federal special education law for children with disabilities.	Section 504 of the Rehabilitation Act of 1973 (Section 504) A federal civil rights law to prevent discrimination against people with disabilities.
Summary of What Each Plan Does	Provides individualized special education and related services to meet a student’s unique needs at no cost to the family.	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 appropriate setting, in the least restrictive environment (LRE).
Who is Eligible?	For IDEA and IEP: a) A child has one or more of the 13 disabilities listed in the Individuals with	504 Plan: a) A child that has any qualified disability. Section 504 covers a

	<p>Disabilities Education Act, like specific learning disabilities, Autism, Other Health Impairment, and others.</p> <p>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.</p>	<p>wider range of disabilities.</p> <p>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.</p> <p>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.</p>
<p>Who Designs the Plan?</p>	<p>An IEP must include the following legally required participants: the parent/guardian; a special education teacher, a general education teacher, the school psychologist or specialist to interpret evaluation results, 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.</p>	<p>BIE’s 504 policy requires that a 504 team must consist of: parent/guardian, teacher, and an administrator.</p>

<p>What's in the Plan?</p>	<p>An IEP sets learning goals and outlines the services the school provides in a written document.</p> <ul style="list-style-type: none"> • 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 education classes and what supports, if any, are needed for the student to participate in extracurricular school activities 	<p>There is not a standard 504 plan, but a 504 Plan generally includes the following:</p> <ul style="list-style-type: none"> • 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
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<p>Consent and Notice</p>	<p>Prior Written Notice is required when a school wants to change a student placement or service or when a school refuses to change a placement or service, after parental request to do so. Notice is also required for IEP meeting and evaluations.</p> <p>IDEA offers many rights to parents and guardians; these are often called Procedural Safeguards. BIE’s IDEA Procedural Safeguards may be found at: https://www.bie.edu/landing-page/special-education</p> <p>A parent/guardian must consent in writing for the school to evaluate a child and provide consent for initial IDEA services in writing.</p>	<p>The school must notify families about an evaluation or a “significant change” in placement.</p> <p>A parent or caregiver’s consent is required for the school district to evaluate a child for Section 504 Services</p> <p>If the team determines the student qualifies for a 504 Plan, they must put a plan in writing, and provide it to the Parent or Guardian within three days.</p>
<p>Funding</p>	<p>Students receive these services at no cost and schools receive additional funding for students with IEPs in the Special Education Program.</p>	<p>Students receive these services at no cost, but the school does not receive extra funding for students with 504 plans.</p> <p>IDEA funds cannot be used to serve students with 504 plans.</p>
<p>How often is the Plan Revised or Reevaluated?</p>	<p>The IEP team must review the plan at least once per year and complete a reevaluation of qualified students every three years, to determine whether special education services are necessary and if IDEA eligibility should be continued for the student.</p>	<p>The BIE 504 team must also meet on an annual basis, to determine if a reevaluation is needed and to review and make any needed updates to a 504 Plan. The prior year’s Section 504 Plan will be reviewed at this time.</p> <p>A Section 504 reevaluation must also occur at least once</p>

		every three years, in BIE schools.
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