

# Native American Rights Fund

## Indigenous Peoples' Rights

<https://www.narf.org/cases/stephen-c-v-bie/>

## Campaign and Advocacy

Havasupai Elementary School students sued the Bureau of Indian Education for failing to provide the required education at the school.

Status: Active

*In the appeal of Stephen C. v. Bureau of Indian Education from the federal district court in Arizona to the U.S. Court of Appeals for the Ninth Circuit, the Native American Rights Fund (NARF) represented the National Indian Education Association, the Tribal Education Departments National Assembly, the American Indian Higher Education Association, and the National Congress of American Indians as amici curiae in support of the students (and guardians) at Havasupai Elementary School, which is a K-8 school operated by the Bureau of Indian Education (BIE).*

*Students allege that the BIE has failed its statutory duties to provide basic special and general education at the school. NARF's amicus brief on behalf of its clients makes the comparison between the well-known and long-standing systemic problems of the BIE, like poor school physical conditions and the failure to consult timely and properly with tribes on actions regarding the schools before taking action or making decisions about the schools, and the specific claims of the Plaintiffs /Appellants in this case alleging the failure to provide basic education at their school. This is a case of first impression never before has the BIE been sued for failing to provide basic education at any of the elementary and secondary schools that it operates.*

In the district court, the parties settled the special education claims. The district court dismissed the general education claims, finding that they rose to the level of a systemic challenge not reviewable by courts under the Administrative Procedures Act (APA).

The students appealed the dismissal of the general education claims. Oral argument was heard on February 9, 2022, by a three-judge panel at the Sandra Day O'Connor U.S. Courthouse in Phoenix, Arizona:

On March 16, 2022, the panel unanimously reversed the district courts ruling.

The panel held that the plaintiffs/appellants claims are reviewable under the APA, based on legal duties established by the BIEs own regulations and the BIEs failure to act according to the regulations. The panel also held that the district court erred in dismissing two student plaintiffs who no longer attend the school on the ground that their claims are moot, because the students, who attended the school when the claims originally were brought, may seek compensatory education as an equitable remedy under the APA.

The BIE did not seek rehearing or rehearing en banc in the Court of Appeals and did not file a petition for a writ of certiorari. The parties returned to the district court to conduct discovery with an intent to file dispositive motions on the issues of the BIEs provision of basic education and the extent to which student plaintiffs are entitled to compensatory education, or to have these issues tried.

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