

Organization:	Public Counsel
1. Case name:	Stephen C. v. Bureau of Indian Education (“BIE”)
2. Case status:	Open
3. Court name:	United States District Court for the District of Arizona

4. Do you believe this to be an IOLTA qualifying activity as defined by B&P 6213, State Bar Rule 3.672, and Eligibility Guideline 2.3?

If you answered no, remember to deduct expenditures related to this non-qualifying activity in the next IOLTA/EAF grant application cycle.

Yes

4. Partner Organizations:

Partner Organizations	
State Bar Grantees	
Other Organizations	
Legal Non-Profit	Native American Disability Law Center
Private Law Firm (Pro Bono)	Munger, Tolles & Olson LLP
Private Law Firm (Pro Bono)	Sacks Tierney, P.A.

5.a. Support Centers

Only: If this is an IOLTA qualifying activity, and no QLSP was listed as a partner organization, indicate how the activity is qualifying under B&P 6213.:

Suggested word limit: 500

6. Counties Impacted

Check all that apply

Out of State

7. Substantive Area

Check all that apply

Disability Rights, Education

Describe
"Miscellaneous":

8. Constituencies Impacted

Check all that apply

Children/Youth, Persons with Disabilities, Rural, Other (Explain)

a. Other
Constituencies:

If the constituencies impacted are not included, please list them.

Native Americans

9. Parties or Class Represented

Students attending Havasupai Elementary School and the Native American Disability Law Center.

a. If available, provide the estimated total number of people impacted:

10. Is the represented party indigent?

This answer alone will not decide whether the activity is or is not a qualifying expense.

Yes

11. Explain how the majority of those impacted are indigent, as defined in B&P §6213(d)

If the majority of persons impacted are not indigent, type n/a.

Nearly three quarters of Havasupai Elementary School students are from low-income families, as measured by their eligibility for free or reduced-price lunch programs.

12. Describe the impact this case will have on indigent persons

If available, include the estimated number of total indigent persons impacted and how this was determined. If no impact on indigent persons, type n/a.

The case seeks to hold the BIE accountable for providing quality education to Native children by providing access to an adequate public education, including access to all required subjects, content, and curriculum; access to education provided by sufficient numbers of qualified teachers and related service providers based on the needs of the school-age population in Havasupai; access to education that is culturally relevant based on the unique culture and tradition of the Havasupai tribe; and access to instruction appropriate to students' native language. This case established a legal principle impacting Native students in California.

13. Briefly describe the legal issue(s) of the case and the overall goal(s)

The lawsuit alleges that the United States government has failed to provide the plaintiffs equal educational opportunities afforded to other students throughout the country. The BIE failed 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 Havasupai Tribe is a federally recognized Native American tribe located at the bottom of the Grand Canyon in Northern Arizona. The lawsuit seeks compensatory and remedial education on behalf of the Havasupai children, including the provision of 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.

14. List case outcomes

If case remains open, highlight accomplishments (if any) achieved during the evaluation year.

We reached a settlement on the disability claims that allowed us to appeal to the Ninth Circuit claims that Judge Logan resolved in the government's favor at summary judgment pertaining to the provision of general education. We argued the appeal on February 9, 2022 before Chief Judge Murguia, Judge Graber, and Judge Fitzwater in the Northern District of Texas. On March 16, 2022, the Ninth Circuit issued a ruling fully in our favor and remanded the case back to the district court. After remand, the parties filed a joint report setting forth a discovery calendar, with a deadline extension set for May 15, 2022. The parties identified two mediators and have been actively engaged in mediation since August 2022. The parties have reached a tentative agreement and we are in the process of explaining and addressing any concerns with our clients.

15. If applicable, describe any economic benefit(s) achieved (client award and/or costs averted)

If the case remains open, but there is an expected future economic benefit, describe the estimated benefit. Report the information you have available (e.g., estimated range). Do not extrapolate.

a. Enter economic benefit amount, if applicable:

430

16. Total Staff Hours

Report total staff hours spent on this case in the evaluation year

551

17. Total Volunteer Hours

Report total volunteer hours spent on this case in the evaluation year. Enter 0 if there were no volunteer hours.

0

Q8:

Additional Information Provided by Public Counsel re: *Stephen C. v. BIE*

Stephen C. v. BIE is a federal case that established precedent that applies to and obtained relief that directly benefits indigent Native American students living in California.

First, the case established for the first time in that Native American students may sue the federal government under the Administrative Procedure Act to compel the Bureau of Indian Education (BIE) to provide legally-mandated general education services to Native American students. This ruling was issued by the Ninth Circuit and established a precedent that applies to Native American students living in California, many of whom are indigent. The most recent U.S. Census Bureau data reflects that Indigenous communities experience the highest poverty rates (25.4%, as compared to a white poverty rate of 8.1%) and the lowest educational attainment rates (15% of Native Americans compared to 33.5% of whites have a bachelor's degree) of all groups in the United States. (See [National Community Reinvestment Coalition, Racial Wealth Snapshot: Native Americans](#), Feb. 14, 2022) (citing 2018 U.S. Census Bureau data).

Second, the relief has been obtained through the lawsuit has directly benefitted Native American students in California, many of whom are indigent. As part of a partial settlement secured in October 2020, the BIE promulgated the first set of regulations implementing Section 504 of the Rehabilitation Act since the Act was passed nearly 50 years ago in 1973. This is a national policy that impacts all students attending BIE schools, including indigent Native American children in California. These regulations expressly articulate the specific actions that the federal government must take to ensure that Native students with disabilities receive equal access to education in BIE schools.

In partnership with the California Tribal Families Coalition, Public Counsel has begun work to further implement these new regulations in California. With Public Counsel's support, California Tribal Families Coalition obtained fellowship funding to provide education advocacy for Native children, legal technical support to tribes, and will explore potential litigation.