

RESOLUTION OF THE
NAVAJO NATION COUNCIL

22nd NAVAJO NATION COUNCIL - Third Year, 2013

AN ACT

RELATING TO LAW AND ORDER, HEALTH, EDUCATION AND HUMAN SERVICES,
AND NAABIK'ÍYÁTI'; APPROVING THE AMENDMENTS TO TITLE 15 N.N.C.
§§1201 THROUGH 1209; AND, AUTHORIZING THE NAVAJO TECHNICAL
COLLEGE TO AMEND ITS ARTICLES OF INCORPORATION

BE IT ENACTED:

Section 1. Findings

A. The Navajo Technical College is a wholly owned non-profit corporation of the Navajo Nation to provide post-secondary vocational education; and

B. The Board of Trustees of Navajo Technical College is responsible for the administration, operations, and development of policy as stated in the Navajo Nation Code at 15 N.N.C. §§1201, *et seq.*; and

C. Since 2006, Navajo Technical College has increased its academic offerings and the growth envisioned for the college to provide academic excellence require that its Enabling Legislation be updated to enable the Technical College to meet the needs of its students and the Navajo Nation community as an institution of higher learning; and

D. Navajo Technical College has developed six (6) baccalaureate degrees, the Navajo Nation's first Registered Nurse program, and several new academic and vocational, technical and career programs to put students to work in the fields of Science, Technology, Engineering and Mathematics (STEM), health and vocational, technical and career trades; and

E. Navajo Technical College is now in the process of developing additional academic programs that will provide its students the opportunity to obtain post-graduate degrees (i.e., masters and Ph.D.); and

F. Navajo Technical College, as a wholly owned non-profit corporation of the Navajo Nation, is responsible to ensure all research and publication activities are consistent with Navajo Nation law. Navajo Technical College (NTC) is as an institution of higher learning that seeks accreditation to award Masters and PhD degrees. Research by NTC graduate students becomes an essential component of a graduate student's curriculum working towards obtaining these degrees. Research by NTC's students adds to the prestige and standing of NTC among the academic community. NTC, thus, seeks authority to establish its own Institutional Review Board to monitor student-generated research.

1. Institutional Review Boards (IRB) review biomedical and behavioral research involving human subjects. The U.S. Department of Health, Education and Welfare enforces the federal regulations that regulate entities receiving federal funding for research. Institutions of higher learning (e.g., universities and colleges) that conduct research are mandated to have an Institutional Review Board by federal funding sources and federal law. Many states have health agency Institutional Review Boards that monitor the research conducted by their agency. Hospitals, medical centers and any other entities that conduct research also have Institutional Review Boards.

2. The U.S. Indian Health Service sponsors IRBs in all of its area offices to review research proposed for its own facilities and offers the service to tribal communities when requested. In 1995, the Navajo Nation adopted the Navajo Nation Health Research Code that included the establishment of the Navajo Nation Human Research Review Board. The Navajo Nation Health Research Review Board reviews proposed research involving Navajos and the IHS IRB is no longer the board of record for research within the Navajo Nation.

3. In view of NTC's development towards a university, the Navajo Division of Health and NTC, in consultation with the Navajo Department of Justice, have come to a consensus whereby the Navajo Division of Health supports the establishment of an IRB at NTC to monitor student-generated research. However, any research reviewed pursuant to the

Public Law 93-638 agreement between the Navajo Nation and the U.S. Department of Health and Human Services must be approved by the Navajo Nation Human Research Review Board.

4. By authorizing NTC to establish an IRB to monitor its student-generated research, the Navajo Nation Council will be encouraging Navajo graduate students to conduct the research essential to their educational development in pursuit of Post-Graduate Masters and PhD degrees. More importantly, the Navajo Nation Council will be strengthening its own institution of higher learning to provide educational opportunities to Navajo students seeking post-graduate degrees, rather than having those students attend a non-Navajo educational institution located off-reservation with the high probability that they will choose to remain off-reservation upon graduation. The Navajo Nation Council's authorization for NTC to establish an IRB will greatly assist in the prevention of the "brain drain" of educated Navajos.

G. The Board of Trustees of Navajo Technical College has determined that it is in the best interest of Navajo Technical College to amend the Navajo Technical College Enabling Legislation, codified at 15 N.N.C. §§1201 *et seq.*, in order to correlate the Enabling Legislation for Navajo Technical College with its development towards a university; and

H. The Navajo Nation Council finds it is in the best interest of the Navajo Nation to amend the Navajo Technical College Enabling Legislation, codified at 15 N.N.C. §§1201 *et seq.*

Section 2. Amendments to Title 15 of the Navajo Nation Code.

The Navajo Nation hereby amends the Navajo Nation Code, Title 15, as follows:

TITLE 15. LABOR

CHAPTER 13. NAVAJO TECHNICAL COLLEGE UNIVERSITY

§ 1201. Establishment; Name; Place; Duration; Seal

A. There is established by the Navajo Nation Council of the Navajo Nation, a Corporation to be known as Navajo Technical College University.

B. The principal place of business of the Corporation shall be at Crownpoint, New Mexico. The Corporation may establish such other places of business as the Board may determine.

C. The duration of the Corporation shall be perpetual.

D. The Corporation shall have a corporate seal approved by the Corporation's Board of ~~Trustees~~ Regents.

§ 1202. Status

A. This Corporation is organized as a non-profit, non-membership corporation, wholly owned by the Navajo Nation, and organized exclusively for educational, charitable and governmental purposes.

B. The Corporation is a non-profit ~~vocational technical~~ educational institution of higher learning of the Navajo Nation government, and is to be considered part of "The Navajo Nation" for purposes of the Navajo Sovereign Immunity Act, 1 N.N.C. § 551 et seq.

§ 1203. Purposes and Powers

A. The Corporation is organized as an institution of higher learning for the primary purpose of providing post-secondary and post-graduate education programs that serve both the academic and vocational/technical ~~and academic~~ needs of the Navajo Nation and its citizens. These purposes incorporate appropriate related educational objectives, including academic programs of instruction, on-the-job training, experiential education, student and faculty technology and scientific research programs appropriately approved by the Navajo Nation Corporation's Institutional Review Board, practicum, internships, experiential education, and other socially beneficial programs to promote the health care, adult education, economic development, cultural and environmental preservation and enhancement, and any other activities that strengthen the Diné people or their government, or both. The Corporation is authorized to do all things appropriate to the furtherance of these purposes, including establishing colleges, schools and

departments and give courses of study and the awarding of higher education award academic degrees appropriate to the fields of study established by the Corporation's board of trustees regents, establishing an appropriate administrative structure; establishing core values and missions; employing qualified faculty and staff essential to meeting the Corporation's purposes; establishing policies; acquiring real and personal property, constructing, leasing, and operating buildings and other physical facilities adequate for carrying out its programs; acquiring necessary equipment, technology, and materials; establishing subsidiary corporations or entities consistent with its educational mission; and entering into intergovernmental, interagency and partnership agreements.

B. Notwithstanding any other provision of Navajo Nation law pertaining to contracting with the federal government, the Corporation is authorized to secure funds from and enter into contracts with the federal government under the Indian Self Determination and Education Assistance Act of 1975, 25 U.S.C. §450 *et seq.*, and provided that the Corporation remains in good standing. The Corporation is further organized for the purposes of securing funds from public and private sources for support and maintenance of its educational programs, and all related purposes, and developing and implementing programs and activities ~~not inconsistent~~ consistent with its status as an ~~educational~~ institution of higher learning of the Navajo Nation, its purposes as stated herein, or with the allowable activities of organizations qualified as charitable or educational within the meaning of §501 (C)(3) or any successor section of the Internal Revenue Code, that generate income to the Corporation to carry out its purpose.

C. The Corporation shall have the power to receive and administer funds, take and hold by bequest, devise, gift, grant, purchase or otherwise, either solely or jointly with another, any property, real, personal or otherwise or any interest therein, without limitation as to amount or value, to sell, convey or otherwise dispose of such property, and to invest, reinvest or deal with the principal and income thereof in such manner as, in the judgment of the Board, will best promote and serve the interests of the Corporation; to enter into contracts and to incur debts and liabilities up to the amount of the Corporation's assets, to sue and be sued, subject to and in

conformity with the provisions of the Navajo Sovereign Immunity Act, 1 N.N.C. §551 et seq., and provided that the Corporation shall have no power to waive the sovereign immunity of the Navajo Nation; and to do any and all other acts or things, within or without the Navajo Nation, appropriate or convenient to achieve the purposes for which it is organized or for any other lawful purposes not inconsistent therewith.

D. No substantial part of the activities of the Corporation shall consist of disseminating any political propoganda or attempting to influence legislation, nor shall the Corporation participate or intervene in any political campaign on behalf of any candidate for public office.

E. No part of the income of the Corporation shall inure to the benefit of any ~~trustee~~ regent or officer of the Corporation, or of any private person, except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to reimburse expenses incurred in the course of such services, and to make payments and distributions in furtherance of its purposes and above-described.

F. Notwithstanding any other provision hereof, the Corporation shall have no power to engage in any activity prohibited to organizations described in §501 (C)(3) of the Internal Revenue Code or its successor, except that so long as the Corporation is determined to be a political subdivision of the Navajo Nation within the meaning of 26 U.S.C. §7871, it shall have the power to do any acts or things permitted of such political subdivisions.

§ 1204. Board of Trustees Regents

A. The Corporation shall be governed by a board of trustees regents composed of six members. There shall be one member of the board appointed from each of the five agencies of the Navajo Nation. These five board members shall have experience in the fields of education, business, science, ~~or~~ technology or any other related field, and at a minimum, a bachelors degree. The President of the Student Senate of the Navajo Technical ~~College~~ University shall serve as a member of the board by virtue of his/her office and shall be a voting member of the Board.

B. The President of the Navajo Nation shall appoint the five members of the board who represent the five agencies of the Navajo Nation, subject to confirmation by the ~~Government Services~~ Naabik'iyáti' Committee of the Navajo Nation Council.

C. Board members shall serve terms of four years each, with the exception of the President of the Student Senate, who shall serve as a board member by virtue of his/her office. The terms shall be staggered. A Board member shall continue to serve after the formal expiration of the term until a successor has been confirmed by the ~~Government Services~~ Naabik'iyáti' Committee. The appointed board members' terms of office shall begin upon their confirmation by the ~~Government Services~~ Naabik'iyáti' Committee. The board shall notify the President of the Navajo Nation of an approaching vacancy and may recommend to the President of the Navajo Nation persons to fill vacancies on the board. ~~Present board members shall serve their present terms of office prior to the extension of their terms by appointment to subsequent terms of office.~~ A Board member may be re-appointed to subsequent terms of office.

D. A board member who resigns shall submit a written resignation to the full Board 30 days before the effective date of the resignation. The Board shall accept the resignation at its next subsequent meeting and notify the President of the Navajo Nation of the resignation.

E. No action of the Board shall be of any validity unless taken at a duly called meeting of the Board, or unless subsequently ratified by a majority vote of the board at a duly called meeting. No individual Board member shall have the authority to act for or bind the Board unless the Board has expressly authorized such action in advance. Each member of the Board shall abide by the Navajo Nation Ethics in Government Law, 2 N.N.C. §3741 et seq.

F. The Board shall elect officers consisting of a Chairperson, a Vice-Chairperson, and a Secretary-Treasurer at its annual meeting to be held in January of each year. The chairperson shall call and conduct meetings, and prepare the agenda in consultation with the President of the Corporation, and shall execute all official documents on behalf of the Board as the Board directs. The Vice-Chairperson shall act in the

place of the Chairperson in the event of the latter's absence or disability. The Secretary-Treasurer shall ensure that maintain the records of the Board and its Committees are maintained including the minutes of all meetings of the Board, shall provide for the custody and supervision of all funds belonging to the Corporation, and shall work closely with the President of the Corporation on the financial affairs of the Corporation. The Board may from time to time delegate additional duties to its officers. Officers of the Board shall serve until their successors are elected.

§ 1205. Powers and duties of the Board of Trustees Regents

The Board of ~~trustees~~ Regents of the Corporation shall have the following powers and duties:

A. To manage and control the Corporation and exercise the powers necessary for the effective governance and administration of the Corporation;

AB. To report annually to the ~~Education~~ Health, Education and Human Services Committee of the Navajo Nation Council on the operation of the Corporation and at such other times as the Committee determines on matters of interest to the Committee;

~~B. To review and approve the annual operating budget of the Corporation and all requests and proposals for funding, whether by contract, grant or otherwise;~~

C. To establish, and review, approve and revise as appropriate, the strategic plan ~~program~~ priorities of the Corporation including programmatic priorities and to ensure that budget and funding proposals are consistent ~~therewith~~ with institutional development;

D. To review and approve the annual operating budget of the Corporation and all requests and proposals for funding, whether by contract, grant or otherwise;

E. To establish an Institutional Review Board to review and approve all social science and animal research conducted by the students of the Corporation; to establish appropriate research conditions and investigative procedures in accordance with

applicable federal and Navajo Nation laws to ensure research projects are free from unreasonable harm, and are non-intrusive, ill-conceived or otherwise offensive. For student conducted research, the Corporation's Institutional Review Board shall perform the functions of the Navajo Nation Human Research Review Board established in Sections 3260 through 3270 of the Navajo Nation Human Research Code, 13 NNC §§ 3251 et seq. The Institutional Review Board shall obtain approval of the Navajo Nation Human Research Review Board, as provided in the Navajo Nation Human Research Code, 13 N.N.C. §§ 3251 et seq., for all other research including medical research, clinical research and research reviewed pursuant to the PL 93-638 agreement between the Navajo Nation and the U.S. Department of Health and Human Services.

DF. To review and approve course curricula, assessment structures, and program plans, research and development projects, including research technology transfer, in accordance with established program priorities and policies of the Corporation;

EG. To ensure that the Corporation maintains full accreditation of its instructional programs by recognized accreditation agencies;

FH. To ~~issue appropriate certificates, diplomas, and award such degrees, diplomas and certificates~~ to students who satisfactorily complete their training or academic programs such courses and curriculum requirements of the Corporation as it deems appropriate and to confer appropriate certificates and degrees. Such certificates, diplomas, or degrees, diplomas and certificates shall be executed by the Chairperson of the Board;

GI. To review and approve all administrative and instructional policies and procedures, and all publications setting forth such policies and procedures;

HJ. To review and approve monthly reports from the various administrative branches of the Corporation, including the President, Provost and the financial reports of the Chief Financial Officer;

IK. To review and approve admission standards, student tuition and fees;

JL. To ensure that the Corporation remains in compliance with all applicable federal and Navajo Nation laws and regulations, including but not limited to health and safety standards.

KM. To ensure that approved Corporation policies and procedures are being enforced consistently by the administrative staff;

LN. To ensure that the Corporation's facilities are kept in good and usable condition, and covered by adequate insurance at all times;

MO. To ensure that the Corporation is in full compliance with grants or contracts by requiring quarterly fiscal and performance reports;

NP. To select and employ by contract the President, and such other Executive Officers of the Corporation as the Board may determine. The board shall establish by contract their scope of work, salaries benefits, disciplinary process and such other terms as the board deems necessary;

OQ. To review and approve on an annual basis the salary scale and position classification for employees of the Corporation;

PR. To review and approve all contracts and contract amendments, with the exception of contracts for less than \$100,000.00 for employment of the Corporation's personnel, professional services and the purchase and sale of equipment for less than \$25,000 which may be acquired and sold, and that such contracts shall comply in accordance with the Corporation's procurement policies;

QS. To review and approve transactions to be entered into by the Corporation affecting any interest in real property;

RT. To accept (or reject) any gift, grant, bequest or devise to or on behalf of the Corporation;

SU. To review, update and approve on an annual basis the financial accounting policies of the Corporation. The Board shall have the Corporation's finances audited annually by an independent auditing firm;

TV. To defend litigation initiated against the Corporation or against any Board member, Officer or Employee thereof for an act committed in the course of his or her official duties, subject to and in conformity with the provisions of the Navajo Nation Sovereign Immunity Act, 1 N.N.C. §551 et seq;

W. To delegate, in accordance with specific guidelines, the execution of any of the foregoing duties and powers to the president or other appropriate administrative officers of the Corporation, or to consultants engaged for that purpose; provided that the Board shall remain ultimately responsible for all matters set forth in this Chapter; and

VX. To adopt and amend by-laws to govern the conduct of its meetings and establish procedures for the orderly transaction of business. Such bylaws may further define the duties and authority of officers of the Board, and such other matters as are appropriate.

§ 1206. Chief Executive Officers of the Corporation

A. The President of the Corporation shall serve as its Chief Executive Officer with responsibility for the following duties:

1. The day-to-day administration of the affairs of the Corporation shall be vested in a President, who shall be hired by the Board.

2. The president shall be responsible for all aspects of the Corporation, including, but not limited to, operations, administration, facilities and property management, safety and welfare of students, faculty and other personnel, and other such activities, and such other duties as the Board may delegate from time to time.

3. The President shall execute contracts for less than \$100,000.00 for employment of the Corporation's personnel, professional services and the purchase and sale of equipment which may be acquired and sold, and shall insure that such contracts comply with the Corporation's procurement policies;

34. The President or designee shall attend all Board meetings. The President shall prepare the proposed board meeting agenda with the Board Chairperson.

45. The President shall report to the Board on all matters of the Corporation.

56. The President shall execute and implement all actions and policies of the Board.

67. The President and the Board Chairperson shall represent the Corporation in dealings with funding agencies and other public and private entities, as delegated by the Board.

78. The President shall exercise such other powers as the Board may delegate to him or her, consistent with Corporation policies.

B. The Corporation may have such other officers as the Board shall determine.

§ 1207. Board Meetings

A. ~~The regular meeting of the Board shall be held monthly, at a place and time to be determined at the previous meeting.~~ There shall be between 9 to 12 regular meetings of the Board each year, at a place and time to be determined at the previous meeting.

B. Special meetings of the Board shall be called at the request of the Chairperson, or on the written request of at least two members of the Board, delivered to the Board's Secretary/Treasurer.

C. Unless otherwise determined by the Board, meetings shall be open to interested persons, provided, that all official action of the Board shall be taken in open meetings. Public

notice of all Board meetings shall be provided five days prior to the meeting date. Board members shall receive written notice of all meetings of the Board.

D. Four members of the Board shall constitute a quorum to conduct official business. Attendance at Board meetings shall be in person except that the Board may conduct any special meeting, convened to address exigent circumstances, by conference telephone call or other communication equipment by means of which all persons participating in the meeting can communicate with each other.

E. The Board shall adopt its own rules for the conduct of business.

F. The Board shall ensure that minutes of all meetings are taken and are kept on file at the Office of the President.

§ 1209. Amendments

This enabling legislation may be amended upon recommendation by a two-thirds (2/3) vote of the Board, ~~subject to the concurrence and the recommendation of the Education Health, Education and Human Services and Government Services Naabik'iyáti' Committees~~ of the Navajo Nation Council. No amendment shall be effective except upon the final approval of the Navajo Nation Council.

Section 3. Amendments to the Enabling Legislation for the Navajo Technical College

The Navajo Nation hereby accepts the recommendation of the Board of Trustees of the Navajo Technical College, attached hereto as Exhibit A, to amend Title 15.

Section 4. Amendment of Articles of Incorporation

The Navajo Nation hereby authorizes the Navajo Technical University to file amended corporate Articles of Incorporation, consistent with the provisions of these statutory amendments.

Section 5. Effective Date

The amendments enacted herein shall be effective pursuant to 2 N.N.C. §221(B).

Section 6. Codification


The provisions of the Act which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

Section 7. Savings Clause

Should any portion of the amendment enacted herein be determined invalid by the Navajo Nation Supreme Court, or the District Court of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, those portions not determined invalid shall remain the law of the Navajo Nation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 21 in favor and 0 opposed, this 17th day of July 2013.


Mel R. Begay, Pro Tem Speaker
Navajo Nation Council

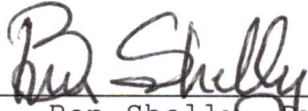
7/26/13

Date

Motion: Honorable Joshua Lavar Butler
Second: Honorable Edmund Yazzie

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. § 1005 (C) (10), on this _____ day of JUL 29 2013 2013.



Ben Shelly, President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this _____ day of _____ 2013, for the reason(s) expressed in the attached letter to the Speaker.

Ben Shelly, President
Navajo Nation