

**RESOLUTION OF THE
NAVAJO NATION COUNCIL**

23rd NAVAJO NATION COUNCIL -- Fourth Year, 2018

AN ACT

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES, LAW AND ORDER, NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL; APPROVING "THE DEPARTMENT OF DINÉ EDUCATION ADMINISTRATIVE ACT OF 2017"; AMENDING THE NAVAJO NATION CODE, TITLE 10, CHAPTER 1, SUBCHAPTER 2, SECTIONS 106 AND 107 ESTABLISHING DIRECT ADMINISTRATIVE RESPONSIBILITY WITHIN THE DEPARTMENT OF DINÉ EDUCATION

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Health, Education and Human Services Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 401(B)(6)(a), has the authority to review and make recommendations to the Navajo Nation Council on resolutions relating to education.
- B. The Law and Order Committee of the Navajo Nation Council, pursuant to 2 N.N.C. 601(B)(14), reviews and makes recommendations to the Navajo Nation Council on proposed amendments to and enactments in the Navajo Nation Code.
- C. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council. Pursuant to 2 N.N.C. § 164(A)(9), the committee reviews proposed legislation, which requires final action by the Navajo Nation Council.
- D. The Navajo Nation Council enacts laws and sets policy for the Navajo Nation. 2 N.N.C. § 102.

SECTION TWO. FINDINGS

- A. The Navajo Nation adopted the Navajo Sovereignty in Education Act of 2005 on July 19, 2005, establishing the Navajo Nation School Board and the Department of Diné Education and confirming the commitment of the Navajo Nation to the education of the Navajo People.
- B. The Navajo Sovereignty in Education Act of 2005 placed certain administrative functions with the Navajo Nation School Board.

- C. As the Department of Diné Education continues to grow in experience and competency such administrative functions can be more efficiently performed by that Department.
- D. The Navajo Nation Council finds it in the best interest of the Navajo Nation and the education of its children to place certain administrative educational functions now resting with the Navajo Board of Education with the Department of Diné Education.
- E. The Navajo Nation Council finds it to be in the best interest of the Navajo Nation to adopt "The Department of Diné Education Administrative Act of 2017" amending 10 N.N.C. §§ 106,107 to accomplish this transfer of certain administrative educational functions from the Navajo Nation School Board to the Department of Diné Education.

SECTION THREE. Amending Title 10

The Navajo Nation Council hereby amends the Navajo Nation Code, 10 N.N.C. §§ 106,107 as follows:

**The NAVAJO NATION CODE
TITLE 10 EDUCATION
Chapter 1 Policy and Planning
Subchapter 2. Diné Education**

* * *

106. Navajo Nation Board of Education

- A. Establishment-Navajo Nation Board of Education.

There is hereby established the Navajo Nation Board of Education (hereinafter, "the Board"), with the Executive Branch of the Navajo Nation government for the specialized purpose of overseeing the operation of all schools serving the Navajo Nation, either directly if under the immediate jurisdiction of the Navajo Nation, or if operated by another government, by joint powers agreements, memoranda of understanding/agreement, cooperative agreements or other appropriate intergovernmental instruments.

- B. Membership.

- 1. The Board shall consist of 11 members.

2. Five Board members shall be elected to four year terms, one at-large from each of the following agencies: Western, Chinle, Fort Defiance, Shiprock and Eastern. If vacancies occur in any of the five elected Board positions, for any reason, the vacancies shall be filled in the same manner as provided in the Navajo Election Code for school board members in 11 N.N.C. § 161(E).
 3. Six Board members shall be appointed to six year terms by the President of the Navajo Nation and confirmed by the Health, Education and Human Services Committee of the Navajo Nation Council. These members will be appointed in order to ensure that a variety of experience and knowledge is present on the Board.
 4. The six appointed members of the Board shall serve as the Board from the time of the confirmation of all six appointed members by the Health, Education and Human Services Committee until the five elected Board members are elected in the 2006 Navajo Nation General Election.
 5. If vacancies occur in any of the six appointed Board positions, for any reason, the President of the Navajo Nation shall make appointments to fill such vacancies for the unexpired remainders of the vacant Board position term, subject to confirmation by the Health, Education and Human Services Committee.
- C. Qualifications of appointed/elected Board members.
1. The six appointed Board members shall meet the following qualifications:
 - a. Two appointed Board members will be individuals who are recognized for their knowledge of traditional Navajo culture;
 - b. One appointed Board members will be a school administrator working on the Navajo Nation;
 - c. Two appointed Board member will be parents of at least one child enrolled in a Kindergarten, elementary, or secondary program on the Navajo Nation;

- d. One appointed Board member will be a teacher employed in a Bureau of Indian **Affairs Education** funded or state public school operating on the Navajo Nation.
 2. The five elected Board members shall have at least a four year academic degree from an accredited college or university.
- D. Qualifications of all Board members.

All Board members shall meet the following qualifications:

1. All Board members shall be enrolled members of the Navajo Nation;
 2. All Board members shall be at least 25 years of age;
 3. All Board members shall not be delegates to the Navajo Nation Council, a member of a school board of a school operating on the Navajo Nation, or an employee of the Department of Diné Education.
 4. All Board members shall not have been convicted of a felony or of any crime involving child abuse or neglect.
- E. Meetings.

1. All meetings of the Board shall be public, and shall be held at a variety of locations either on or in immediate proximity to the Navajo Nation so as to make it possible for the interested Navajo public and Navajo educators to attend.
2. The Board shall meet on such schedule as is necessary to carry out its responsibilities or at the call of its presiding officer.
3. An electronic record of the procedures of the Board shall be kept, and shall be made available to the public in accord with the Navajo Nation Privacy and Access to Information Act.
4. During meetings of the Board, an opportunity shall be made available for the public to speak on any issue before the Board.

F. Compensation.

Board members shall receive payment for discharging their duties at rates set by the Health, Education and Human Services Committee of the Navajo Nation Council.

G. Powers and duties.

1. The Board shall have the general power to monitor the activities of all Bureau of Indian **Affairs Education** funded schools and local community school boards serving the Navajo Nation, including the authority:

a. To assume control of local community controlled schools from the local community school board in situations wherein:

i. The Navajo Nation has received written notice of the intent of the Bureau of Indian **Affairs Education** to reassume any of the programs, or portions of programs, which the local community school is managing and operating under authorization from the Navajo Nation, pursuant to Public Law 93-638 or Public Law 100-297, as amended; or

ii. The Navajo Nation has sent written notice to the local community school board that the Navajo Nation has made a request for retrocession of the programs, or portions of programs, which the local community school is managing and operating under authorization from the Navajo Nation, pursuant to Public Law 93-638 or Public Law 100-297, as amended; or

iii. The Navajo Nation Board of Education has provided the local community school board with a written notice of its opportunity for a due process hearing held pursuant to regulations adopted by the Health, Education and Human Services Committee of the Navajo Nation Council, at which the local community school board may appear and show cause why the programs, or portions of programs, which the local community school is managing and

operating under authorization from the Navajo Nation pursuant to Public Law 93-638, as amended, or Public Law 100-297, as amended, should not be assumed by the Department of Diné Education;

- b. To report at least quarterly to the Health, Education and Human Services Committee of the Navajo Nation Council, and annually to the Navajo Nation Council.
 - c. To report to the Health, Education and Human Services Committee of the Navajo Nation Council any instance where the Board has assumed control of community controlled schools.
 - d. To provide guidance for the school accreditation activities of the Navajo Nation North Central Accreditation Office.
2. Subject to Navajo Nation law, the Board is authorized to solicit funds, propose budgets and plans of operation, create positions, and establish organization relationships, and employ and supervise personnel through a chain of command. Provided, that the Board is not authorized to represent the Navajo Nation in consultation with federal, state, and local officials regarding any proposed changes in federal education legislation or educational programs, including new schools (including charter schools), school closures, consolidations, education budget initiatives and the like. These authorities are delegated specifically to the Health, Education and Human Services Committee of the Navajo Nation Council, as set forth in 2 N.N.C. § 401 (B) (4) ~~484(B)(6)~~.
- a. The chief administrative officer of the Board shall be the "Navajo Nation Superintendent of Schools," who shall be appointed by the Navajo Nation Board of Education, subject to confirmation by the Navajo Nation Council, and shall be empowered to do all things necessary and proper to carry out the responsibilities of the Board.
 - b. Within budgetary constraints, and consistent with the Department Plan of Operation, the Board may

establish such subordinate offices, staff, and advisory bodies, as necessary to carry out its duties and responsibilities.

~~3. The Board shall carry out the following duties and responsibilities through the Navajo Nation Department of Education:~~

~~a. Establish instructional content and achievement standards and customized criterion referenced achievement testing instruments for schools serving the Navajo Nation, including consolidation of the standards of the three states overlapping the Navajo Nation with those of the Navajo Nation for Navajo language and cultural knowledge.~~

~~b. Establish policies and procedures for carrying out the accountability provisions of the federal education laws with regard to all Bureau of Indian Affairs funded schools serving the Navajo Nation.~~

~~c. Establish procedures and criteria for licensing administrators for Bureau of Indian Affairs funded schools operated under contracts or grants authorized by the Navajo Nation governing body.~~

~~d. Establish procedures and criteria for endorsing Navajo language and cultural knowledge programs, and for certifying the competency of instructional personnel to deliver them.~~

~~e. Receive monitoring and evaluation reports on all elementary and secondary educational programs serving the Navajo Nation. Provide for technical assistance as necessary and desired by such programs within available resources.~~

~~f. In cooperation with the Health, Education and Human Services Committee of the Navajo Nation Council, develop procedures to enforce the Navajo Nation school attendance laws.~~

~~g. Review and endorse or decline to endorse existing elementary and secondary school curricula, teaching and criterion referenced test materials for consistency with the unique needs of Navajo students in all schools serving the Navajo Nation, and make~~

~~recommendations thereon to the state agencies controlling curricula in the public schools.~~

- ~~h. Direct the creation and publication of curricula, teaching, and criterion referenced test materials as needed for instruction in Navajo language and cultural knowledge.~~
- ~~i. Negotiate and recommend to the appropriate Navajo Nation officials joint powers agreements or memoranda of understanding/agreement or other intergovernmental agreements as necessary to coordinate the activities of the Department of Diné Education with the Bureau of Indian Affairs and the departments of education of the states overlapping the Navajo Nation.~~
- ~~j. In cooperation with the Health, Education and Human Services Committee of the Navajo Nation Council, oversee research on the educational achievement, problems, and needs of Navajo Nation students and school systems.~~
- ~~k. c. Propose needed Navajo Nation education legislation to the Health, Education and Human Services Committee of the Navajo Nation Council.~~
- ~~l. d. Actively pursue funding to support the activities of Navajo Nation education programs.~~
- ~~m. Implement the procedures established under the Grant/Contract Conversion/Maintenance Handbook and recommend such revisions to the Manual as are deemed necessary. Implement the process for reauthorization of school contracts/grants.~~
- ~~n. Establish procedures for the enforcement of Navajo Nation educational laws and implement such laws to the full extent of Navajo Nation jurisdiction.~~

§ 107. Department of Diné Education

- A. The Department of Diné Education ("Department") is the administrative agency within the Navajo Nation with responsibility and authority for implementing and enforcing the educational laws of the Navajo Nation. The Department is subject to and carries out the laws adopted by the Navajo Nation Council. In exercising its responsibilities,

the Department shall seek to work cooperatively with schools serving the Navajo Nation.

B. The Department is under the immediate direction of the Navajo Nation Superintendent of Schools, subject to the overall direction of the Navajo Nation Board of Education. In carrying out its responsibilities the Department, through the Superintendent of Schools, is authorized and directed to:

1. Establish cooperative arrangements with other divisions and programs within the Navajo Nation and with education organizations and entities;
2. Negotiate cooperative arrangements and intergovernmental agreements with local, state and federal agencies and governmental bodies, subject where required, to the approval of the Navajo Nation Council or designated standing committee.
3. Inquire into the educational situation of Navajo students in any school or educational program serving the Navajo Nation or receiving program funds for the education of Navajo youth or adults. The authority to make inquiries granted to the Department in this Subsection extends to all affected school sites.
4. Determine the impact of educational programs on Navajo students by inquiring into areas of concern, such as achievement data, test results, budgets, language proficiency, special educational programs, supplemental programs, staffing, social and economic variables, curriculum, health and safety, adequacy and accessibility of facilities, and other areas of inquiry relevant to the educational situation of Navajo students.
5. Comply with federal and, where appropriate, state requirements regarding confidentiality or records.
6. Report the results of its inquiries to the Health, Education and Human Services Committee of the Navajo Nation Council and to the Navajo Nation Board of Education ("Board") and local community school boards, school board association, communities and other entities serving the Navajo Nation affected by the subject matter of these inquiries.

7. Make recommendations in its reports for the improvement of Navajo education.
8. Upon a directive from the Board, assume control of community controlled schools in situations where the Board exercises its authority under § 106(G)(1)(a).
9. Report quarterly to the Board on the state of Navajo education.
10. Shall implement the procedures, policies, directives and guidance as approved by the Board related to the education of Navajo children and the enforcement of Navajo Nation laws.
11. The Department shall be available to work with schools, school districts, governing boards, local communities and other appropriate entities to develop plans for the implementation of Navajo educational laws, to coordinate utilization of available resources and to assist in the development of new resources. The Department shall assure that its staff have and receive appropriate professional training in order to keep informed of current educational methodologies, laws, regulations, and research.
12. The Department shall carry out the following duties and responsibilities in consultation with and subject to the review of the Navajo Nation Board of Education:
 - a. Establish instructional content and achievement standards and customized criterion referenced achievement testing instruments for schools serving the Navajo Nation, including consolidation of the standards of the three states overlapping the Navajo Nation with those of the Navajo Nation for Navajo language and cultural knowledge.
 - b. Establish policies and procedures for carrying out the accountability provisions of the federal education laws with regard to all Bureau of Indian Education funded schools serving the Navajo Nation.

- c. Establish procedures and criteria for licensing administrators for Bureau of Indian Education funded schools operated under contracts or grants authorized by the Navajo Nation governing body.
- d. Establish procedures and criteria for endorsing Navajo language and cultural knowledge programs, and for certifying the competency of instructional personnel to deliver them.
- e. Receive monitoring and evaluation reports on all elementary and secondary educational programs serving the Navajo Nation. Provide for technical assistance as necessary and desired by such programs within available resources.
- f. In cooperation with the Health, Education and Human Services Committee of the Navajo Nation Council, develop procedures to enforce the Navajo Nation school attendance laws.
- g. Review and endorse or decline to endorse existing elementary and secondary school curricula, teaching and criterion referenced test materials for consistency with the unique needs of Navajo students in all schools serving the Navajo Nation, and make recommendations thereon to the state agencies controlling curricula in the public schools.
- h. Direct the creation and publication of curricula, teaching, and criterion referenced test materials as needed for instruction in Navajo language and cultural knowledge.
- i. Negotiate and recommend to the appropriate Navajo Nation officials joint powers agreements or memoranda of understanding/agreement or other intergovernmental agreements as necessary to coordinate the activities of the Department of Diné Education with the Bureau of Indian Education and the departments of education of the states overlapping the Navajo Nation.
- j. In cooperation with the Health, Education and Human Services Committee of the Navajo Nation Council, oversee research and provide for

corrective actions on the educational achievement, problems, and needs of Navajo Nation students and school systems.

- k. Propose needed Navajo Nation education legislation to the Health, Education and Human Services Committee of the Navajo Nation Council.
- l. Actively pursue funding to support the activities of Navajo Nation education programs.
- m. Oversee the accountability and compliance of all Navajo Nation and applicable federal education laws or regulations.
- n. Implement the procedures established under the Grant/Contract Conversion/Maintenance Handbook and recommend such revisions to the Manual as are deemed necessary. Implement the process for reauthorization of school contracts/grants.
- o. Establish procedures for the enforcement of Navajo Nation educational laws and implement such laws to the full extent of Navajo Nation jurisdiction.

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SECTION FOUR. 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 FIVE. SAVING CLAUSE

Should any provision of this Act be determined invalid by the Navajo Nation Supreme Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, the remainder of the Act shall remain the law of the Navajo Nation.

SECTION SIX. EFFECTIVE DATE

The provisions of this Act shall become effective in accord with 2 N.N.C. § 221(B).

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 14 in favor and 04 opposed, on this 19th day of April 2018.



LoRenzo C. Bates, Speaker
23rd Navajo Nation Council

4-27-18


Date

Motion: Honorable Leonard Tsosie
Second: Honorable Kee Allen Begay, Jr.

Speaker Bates not voting

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 7th day of May 2018.



Russell Begaye, President
Navajo Nation

2. I, hereby, veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (c)(11), on this _____ day of _____ 2018 for reason(s) expressed in the attached letter to the Speaker

Russell Begaye, President
Navajo Nation

Navajo Nation

NAVAJO NATION

RCS# 1100

4/19/2018

Spring Session

04:02:14 PM

Amd# to Amd#

Legislation 0496-17:

PASSED

MOT Tsosie
SEC Begay, K

Approving "the Department of
Dine Education Administrative
Act of 2017", Amending the NN...

Yea : 14

Nay : 4

Excused : 2

Not Voting : 4

Yea : 14

Begay, K
Begay, NM
BeGaye, N
Bennett

Chee
Damon
Hale
Jack

Perry
Slim
Tso

Tsosie
Witherspoon
Yazzie

Nay : 4

Smith

Phelps

Daniels

Begay, S

Excused : 2

Shepherd

Filfred

Not Voting : 4

Brown

Crotty

Pete

Bates