

**Revision note.** See 1 N.N.C. § 704(C).

## **Title 2**

### **Navajo Nation Government**

#### **Chapter 1. Establishment**

##### **Subchapter 1. Generally**

###### **§ 1. Navajo Nation government establishment**

There is hereby established the Navajo Nation government consisting of the Legislative, Executive and Judicial Branches, and political subdivisions of which are not under any branch of the Central government.

###### **History**

CD-68-89, December 15, 1989. See 2 N.N.C. §§ 101, 1001 and 7 N.N.C. § 201, respectively.

###### **§ 2. Location of Navajo Nation Capitol**

The capitol of the Navajo Nation shall be located at Window Rock, Navajo Nation (Arizona).

###### **History**

CD-68-89, December 15, 1989. Language slightly amended.

Tribal Council Res. 1922-1951, Res. p. 371, October 14, 1949.

###### **§ 3. Oath of office**

The President, Vice-President and all delegates to the Navajo Nation Council, before assuming their official duties, shall take an oath of office.

###### **History**

CD-68-89, December 15, 1989.

###### **Cross References**

Navajo Nation Election Code, see 11 N.N.C. § 6.

###### **§ 4. [Deleted]**

###### **History**

Deleted by CD-68-89; December 15, 1989.

CJN-60-71, June 8, 1971; an organizational structure for the Navajo Nation was adopted. Justifications in the 1972 budget for all departments, programs, etc.,

were approved and adopted as plans of operation. Each year thereafter the appropriate budget year reference was substituted until CS-28-83, September 28, 1983 substituted references of 1984 for 1983. The approval of plans of operation and organizational structure rested with the Advisory Committee.

By CD-68-89, December 15, 1989, the Government Services Committee succeeded the Advisory Committee. Authorization for various programs is found throughout this title. Plans of Operation are no longer codified.

#### **Cross References**

Approval of plans of operation for Legislative Branch programs, Intergovernmental Relations Committee, authority, see 2 N.N.C. § 824(B) (1).

Programs in the Executive Branch, authority of the Government Services Committee for plans of operation, see 2 N.N.C. § 343(B) (2).

### **Subchapter 2. Property Control**

#### **§ 51. Purpose**

This policy sets forth, in general terms, the authority, principles, and policies governing the accounting for Navajo Nation property in terms of both dollar value and units, and prescribes staff responsibilities for their execution and supervision. This policy also provides the basis for the implementation of and general supervision over procedures necessary to put such principles and policies into practice; insures physical integrity and responsible use of all Navajo Nation assets through the maintenance of records, performance of inventories and implementation of disposal procedures; and insures the provision of adequate and economical warehousing, receipt and delivery of the Navajo Nation's property.

#### **History**

ACJY-84-84, July 10, 1984.

#### **§ 52. Statutory provisions**

The Navajo Nation Council may prescribe regulations for the accounting of Navajo Nation property and the fixing of responsibility for that property. Under regulations prescribed by the Navajo Nation Council, records of real property, personal property and supplies of the Navajo Nation will be maintained on both a quantitative and monetary basis, so far as practicable.

#### **History**

ACJY-84-84, July 10, 1984.

#### **§ 53. Scope**

A. The general principles of this regulation are applicable to all components of the Navajo Nation wherever located, including the Navajo Nation's property in programs operating under the regulation of federal, state or other

contractual arrangements.

B. The general principles of this policy are applicable to programs operating under one or more elements of the financial management plans and procedures of the Navajo Nation.

C. Activities operating under federal grant or contract funds shall apply the general principles of this regulation and observe the Code of Federal Regulations (CFR), Title 41, Public Contracts and Property Management, Subtitle C, Federal Property Management Regulations System.

### **History**

ACJY-84-84, July 10, 1984.

### **§ 54. Explanation of terms**

The following terms are pertinent to this regulation and to all other regulations dealing with property accounting:

A. Accountability involves the basic obligation of accounting for property, whereas responsibility arises from possession of property and/or the obligation of supervision of others who are in possession of property. Either or both of these concepts may be attached to one individual. Accountability is assigned at the department head level, or equivalent, or higher. In the appointment of accountable individuals, consideration should be given to the fact that accounting for and familiarity with property should constitute an important part in the experience and knowledge of the individual. Familiarity with Navajo Nation's Property Policies and Procedures is necessary for all accountable individuals.

B. Responsibility is the obligation of an individual with respect to the proper custody, care and safekeeping of the Navajo Nation's property entrusted to his/her possession or his/her supervision.

The department head or equivalent is, by virtue of his/her assignment, responsible for all the property of his department regardless of whether or not he/she has signed inventory forms for such property. In the case of temporary absence, such responsibility may be delegated to an assistant for a specified period. The department head will attend personally to the security of the property of his/her department and to supervising the activities of assistants to the extent necessary to permit determination of individual responsibility for loss or damage.

C. Pecuniary liability is defined as referring to a personal, joint or incorporated monetary obligation for any lost, damaged or destroyed property resulting from misconduct or negligence.

D. Property list accountability refers to the obligation to maintain records of certain classes of property under conditions specified in policies or specific instruction of the Navajo Nation Council.

1. This obligation includes that of property responsibility. Such records, as well as books of account, are subject to examination by

auditors or others as may be authorized or required.

E. Property record is a basic record showing, by item, the receipt, use and disposition of property and such other identifying data as may be required by proper authority.

F. A loan form is a signed document, acknowledging acceptance of responsibility of items of property listed thereon which are loaned or issued for use and are to be returned.

G. The Navajo Nation's Property Listing is a record of personal property accountability maintained by the Property Department of the Navajo Nation.

H. Installed building equipment are the items of equipment and furnishings, including materials for installation thereof, which are required to make the facility usable and are affixed as a permanent part of the structure. These items will include plumbing fixtures and equipment; fixed heating, ventilating, cooling, air conditioning, electrical and fixed fire protection systems; elevators and escalators; overhead crane runways, laboratory counters, cabinets and similar fixed equipment. Machine tools, production and research equipment and their foundations are excluded.

I. Capitalized assets consist of real property, installed building equipment, personal property and non-expendable supplies which meet criteria in (1), (2) and (3) below:

1. Has a value of three hundred dollars (\$300.00) or more;
2. Is classified non-expendable in accordance with Navajo Nation Council Resolutions; and
3. Has been determined to be a sensitive item by the Controller, Navajo Nation.

J. Sensitive items are items costing less than three hundred dollars (\$300.00) but having a high intrinsic value or high degree of utility, i.e., firearms, calculators, cameras, etc.

K. Equipment in place is personal property of a movable nature which has been fixed in place or attached to real property but which may be severed or removed from buildings without destroying the usefulness of the structures. It does not include installed building equipment.

L. Real property is land, land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

#### **History**

ACJY-84-84, July 10, 1984.

**Note.** Slightly reworded for grammatical clarity.

#### **§ 55. Distinction of terms**

A. Formal accountability refers to the obligation to maintain a property record. This is the obligation of an individual, officially designated with respect to a specified activity, to maintain records of item balances and/or dollar values in accordance with a prescribed system showing authorized debits, credits and available balances on hand or in use by such activity. The records so maintained will be referred to in general as "Records of Accountability".

B. An accountable individual is vested with accountability for property and maintains records in connection therewith, irrespective of whether the property is in his/her own possession for use or storage, or in the possession of others to whom it has been officially entrusted for temporary use or for care and safekeeping. Property accountability is not terminated until transfer to another accountable individual has been accomplished, or until items of property have been dropped from accountability by the Property Control and Stores Department. Specifically, accountability is not terminated by the disposition of property which merely places responsibility for its custody or safekeeping with another individual.

C. Responsibility is vested upon any individual to whom property has been entrusted and who is specifically charged with its care and safekeeping whether in use or in storage. The signature of an individual on the Navajo Nation's physical inventory form is prima facie evidence that he/she has accepted responsibility for its care and safekeeping. The assignment to duty, in which responsibility for an item of property or for the property of a unit or activity is inherent, is also prima facie evidence that the individual so assigned is charged with responsibility for its care and safekeeping. (Such assignment to duty may be either written or verbal and should be accompanied by a suitable inventory listing. If the accuracy of the listing is questioned, a physical inventory may be requested prior to the official acceptance of transfer of responsibility.)

D. Both Accountability and Responsibility. An individual may be both accountable and responsible, or vice versa. An accountable individual who has issued/loaned property, using the Navajo Nation's inventory sheet or official loan form or has an officially-designed area, has accountability without responsibility. The individual so receiving the property or so charged with its care and custody has responsibility without accountability.

### **History**

ACJY-84-84, July 10, 1984.

### **§ 56. Classifications of property**

Property under the control of the Navajo Nation and purchased from General Funds is, for the purpose of accountability, classified as follows:

A. Real property consists of lands and interest therein, leaseholds, buildings and improvements and appurtenances thereto. It includes piers, docks, warehouses, rights-of-way and easements, whether temporary or permanent, underground conduits and associated manholes, utilities systems and parts thereof, and all other improvements permanently attached and ordinarily considered real estate. It does not include machinery, equipment, fixed signal communications systems, etc., which may be severed or removed from buildings

without impairing or destroying the usefulness of the structures.

B. Personal property is all property other than real. Such property can be further classified as "expendable" and "non-expendable" property.

1. Expendable property is property which is of a relatively low dollar value, or is property which is consumed in the performance of a function or is incorporated into an end item. The cost or appraised value of such items are to be charged as an expense.

2. Non-expendable property is an item of personal property of any dollar value, which retains its identity throughout its useful life and has a dollar value high enough to warrant maintenance of item accountability. Property is defined as those categories or specific items of property which, for property management and/or accounting purposes, are to be carried as capital assets until disposed of by transfer, sale or other means.

### **History**

ACJY-84-84, July 10, 1984.

**Note.** Slightly reworded for grammatical clarity.

### **§ 57. General provision concerning the Nation's property**

A. Individuals to whom the Navajo Nation's property is entrusted are charged with responsibility for its care and safekeeping, and they should be prepared to show, in the event of loss, the precautions taken by them personally to guard against loss, damage, etc.

B. An individual should not be assigned to duty that will separate him/her from property for which he/she is responsible. Individuals may be required to assume accountability for property remotely located. In such instances they are required to maintain records which will show at all times, the general location of such property and the individuals responsible for its care and safekeeping.

C. The sale, gift, loan, exchange, or other disposition of any of the Navajo Nation's property not specifically authorized by regulations or other directives issued by the Navajo Nation Council is illegal.

D. Any person who, without authority, sells or otherwise disposes of the Navajo Nation's property willfully or through neglect allows the Navajo Nation's property to be lost, damaged, destroyed, sold or wrongly disposed of, may be punished as local rules, regulations and/or laws may direct.

E. To the extent practical, all of the Navajo Nation's property will be identified by marking and/or tagging unless such marking would impair the utility of the item.

F. Records of accountability for property will list serial numbers for positive identification of like items and reporting losses.

G. Navajo Nation employees who occupy assigned Navajo Nation quarters or have been issued Navajo Nation property for use in family quarters, acquire responsibility for the proper care of the quarters and furnishings.

Upon occupancy of quarters or receipt of furnishings, a document covering the occupancy or receipt of property will contain a listing of the property, including its present condition. Acceptance of the quarters and/or furnishings infers that the employee assumes responsibility for loss, damage, or destruction of the property due to his/her negligence, including those instances where the loss, damage or destruction is related to an act of a member of his/her household or other individual and the evidence shows that the employee, under the circumstances, failed to exercise a reasonable degree of care.

#### **History**

ACJY-84-84, July 10, 1984.

**Note.** Slightly reworded for grammatical clarity.

#### **§ 58. General property accounting**

A. All property acquired by the Navajo Nation by purchase, lease rental, transfer, manufacture or any other means and whether paid for or not, must be accounted for and marked or tagged.

B. All property that is discovered, tagged or not, by an accountable individual will be taken up and accounted for by him/her. When discovered by individuals not accountable it will be reported by them to an accountable individual. It shall also be the duty of the individual reporting the existence of property as indicated above to take charge of and protect such property until responsibility has been assumed by property authority.

C. Under special or extraordinary circumstances, the Navajo Nation Council may grant waivers of or deviations from prescribed accounting procedures. Any requests for such waivers or deviations will be prepared and routed through their respective chain of command to the Property Control and Stores Department where recommendations will be made and forwarded for formal approval.

D. Trading Stamps and/or Other Gratuities. No rewards, favors, gifts or other form of remuneration shall be received from any vendor, contractor, individual or firm, or any other source having relations with the Navajo Nation or any of its delegate agencies.

#### **History**

ACJY-84-84, July 10, 1984.

#### **§ 59. Inventories of property**

In the interest of proper accounting, complete, detailed and accurate physical inventories of property assigned will be made and reconciled annually or upon a change of accountable individuals within departments or equivalent

levels of administration. A physical inventory involves an actual observation and count of the property. A property condition check is a part of inventories. Damaged/destroyed property will be handled as prescribed in the Internal Operating Procedures of the Property Control and Stores Department.

#### **History**

ACJY-84-84, July 10, 1984.

#### **§ 60. Adjustments of discrepancies**

In the event unmarked/untagged property is found, ownership will be determined and if proven to be Navajo Nation-owned, it shall be marked/tagged as such. If ownership cannot be determined, the property will be marked/tagged as Tribal Property and recorded as "found property". Property not located during the inventory and after a reasonable time and effort will be considered lost or stolen and will be handled as prescribed in the Internal Operating Procedures of the Property Control and Stores Department.

#### **History**

ACJY-84-84, July 10, 1984.

### **Chapter 2. Navajo Nation Privacy and Access to Information**

#### **Subchapter 1. Privacy and Access to Information**

#### **§ 81. Short Title**

This Act shall be referred to as the Navajo Nation Privacy Act.

#### **History**

CAP-48-99, April 23, 1999

#### **§ 82. Declaration of Public Policy**

The Navajo Nation Council finds and declares it the policy of the Navajo Nation that a democratic form of government requires that information related to government operations be accessible to the public, while recognizing that individuals have a right to privacy. It is the intent of the law that the general public be provided a means to access records and information relating to the operation of the Navajo Nation while preserving the privacy interests of individuals and entities.

#### **History**

CAP-48-99, April 23, 1999

#### **Annotations**

##### **1. Construction and application**



"The meaning of the Act is a matter of first impression for this Court. The Act attempts to balance two competing values: (1) the importance of a transparent Navajo government that educates the people on its activities through unfettered access to government information, and (2) the protection of the privacy of individuals affected by the government." *Navajo Nation Department of Child Support v. Navajo Nation Labor Commission*, No. SC-CV-22-06, slip op. at 3 (Nav. Sup. Ct. August 24, 2006).

### **§ 83. Definitions**

As used in this Subchapter:

A. "Governmental entity" means any administrative, advisory, executive, judicial or legislative office or body of the Navajo Nation or its political subdivisions, including without limitation all commissions, corporations, and other instrumentalities whose boards of directors are appointed or elected by the Navajo Nation or its political subdivisions. Governmental entity includes all quasi-judicial bodies and all standing, special or advisory committees of subcommittees of, or appointed by, the Navajo Nation to carry out the public's business.

B. "Person" means any individual, nonprofit or profit corporation, partnership, sole proprietorship, or other type of business organization.

C. "Protected record" means any record containing data on persons or governmental entities that is private or otherwise protected as provided by 2 N.N.C. § 85.

D. "Public record" means any record that is not private or otherwise protected and that is not exempt from disclosure as provided in 2 N.N.C. § 84.

E. "Record" means all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings, electronic data, or other documentary materials regardless of physical form or characteristics which are prepared, owned, received, or retained by a governmental entity and where all of the information in the original is reproducible by photocopy or other mechanical or electronic means. "Record" does not mean:

1. Materials that are legally owned by an individual in his private capacity;

2. Materials to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity;

3. Junk mail or commercial publications received by a governmental entity or an official or employee of a governmental entity;

4. Books and other materials that are catalogued, indexed, or inventoried and contained in the collections of libraries open to the public;

5. Daily calendars and other personal notes prepared by the originator for the originator's personal use or for the personal use of an individual for whom he is working;

6. Computer programs that are developed or purchased by or for any governmental entity for its own use; or

7. Notes or internal memoranda prepared as part of the deliberative process by a member of the judiciary or any other body charged with performing a quasi-judicial function.

F. "Right to Privacy" means the right of a person to be free from unwarranted intrusion by a governmental entity.

### **History**

CAP-48-99, April 23, 1999

### **Annotations**

#### **1. Construction and application**

"The Act attempts to regulate access to 'records,' defined as certain documents and other physical objects held by government offices." *Navajo Nation Department of Child Support v. Navajo Nation Labor Commission*, No. SC-CV-22-06, slip op. at 3 (Nav. Sup. Ct. August 24, 2006).

#### **§ 84. Records that must be disclosed**

A. The following records are public except to the extent they contain information expressly permitted to be treated as protected as provided for in 2 N.N.C. § 85.

1. Laws;

2. Names, gender, job titles, job description, business addresses, business telephone numbers, number of hours worked per pay period, dates of employment, relevant education, previous employment, and similar job qualifications of the governmental entity's current and former employees and officers excluding:

a. Undercover law enforcement personnel; and

b. Investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety;

3. Inter-office memoranda;

4. Final opinions, including concurring and dissenting opinions, and orders that are made by a governmental entity in an administrative, adjudicative, or judicial proceeding except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they contain information that is protected.

5. Final interpretations of statutes or rules by a governmental entity;

6. Information contained in or compiled from a transcript, minutes, or report of the open portions of a meeting, excluding executive sessions, or a governmental entity;

7. Judicial records unless a court orders the record to be restricted under the rules of civil or criminal procedure or unless the records are protected under this Subchapter;

8. Records filed with or maintained by governmental entities that give public notice of:

a. Titles or encumbrances to real property, including homesite permits, land use permits and grazing permits; or

b. Restrictions on the use of real property;

9. Records filed with or maintained by governmental entities that evidence incorporations, name changes, and uniform commercial code filings;

10. Documentation of the compensation that a governmental entity pays to a contractor or private provider; and

11. Data on individuals that would otherwise be protected under this Subchapter if the individual who is the subject of the record has given the governmental entity written permission to make the records available to the public.

B. The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under 2 N.N.C. § 85:

1. Administrative staff manuals, instructions to staff, and statements of policy;

2. Records documenting a contractor's or private provider's compliance with the terms of a contract with a governmental entity;

3. Contracts entered into by a governmental entity;

4. Any account, voucher, or contract that deals with the receipt or expenditure of funds by a governmental entity;

5. Correspondence by and with a governmental entity in which the governmental entity determines or states an opinion upon the rights of the Nation, a political subdivision, the public, or any person;

6. Empirical data if contained in drafts if:

a. The data is not reasonably available to the requester elsewhere in similar form; and

b. The governmental entity is given a reasonable opportunity

to correct any errors or make nonsubstantive changes before release;

7. Drafts that are circulated to anyone other than a governmental entity, a federal agency if the governmental entity and the federal agency are jointly responsible for implementation of a program, or a contractor or private provider;

8. Drafts that have never been finalized but were relied upon by the governmental entity in carrying out action or policy;

9. Arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;

10. Search warrants after execution and filing of the return, except that, for good cause, a court may order restricted access to search warrants prior to trial;

11. Records that would disclose information relating to formal charges or disciplinary action against a past or present governmental entity employee if:

a. The disciplinary action has been completed and all time periods for administrative appeal have expired; and

b. The formal charges were sustained.

C. The list of public records in this Section is not exhaustive and should not be used to limit access to records.

### **History**

CAP-48-99, April 23, 1999

### **Annotations**

#### **1. Construction and application**

"The first category is 'records that must be disclosed,' or 'public records,' and the second is records that cannot be disclosed, or 'protected records'." *Navajo Nation Department of Child Support v. Navajo Nation Labor Commission*, No. SC-CV-22-06, slip op. at 3 (Nav. Sup. Ct. August 24, 2006).

"The act lists a total of twenty-two types of records that are public, but also states that '[t]he list of public records is not exhaustive and should not be used to limit access to records.' 2 N.N.C. § 84( C) (2005). The last phrase prohibits the use of Section 84 to bar access to non-listed records by negative implication. The Council intended that the list be inclusive, but not exclusive. In other words, the list is meant to illustrate types of records that are public, but not restrict 'public records' to only those records the Council chose to list. While this open-ended approach may create confusion as to what records other than those listed are public, it nonetheless indicates a preference for maintaining a transparent government and bars CSE's negative implication argument." *Navajo Nation Department of Child Support v. Navajo Nation Labor Commission*, No. SC-CV-22-06, slip op. at 6 (Nav. Sup. Ct. August

24, 2006).

## **2. Navajo Nation Labor Commission proceedings**

"The Court holds that the Act does not regulate access to Commission proceedings, regardless of whether Commission records are covered by the Section. As noted above, the Act regulates access to records, that is, physical objects held by the government." *Navajo Nation Department of Child Support v. Navajo Nation Labor Commission*, No. SC-CV-22-06, slip op. at 4 (Nav. Sup. Ct. August 24, 2006).

"The Court also holds the Section does not bar access to Commission records. The Court approaches the issue in two ways. First, the Court holds that the list of 'public records' in Section 84 of the Act cannot be used to bar access to other records by negative implication. Second, the Court holds that even if Section 84 barred other records by negative implication, Section 84(B) does not apply to Commission records, but only to records concerning Navajo governmental employee grievances. Access to Commission records therefore are not covered by the Section at all, and the Section's negative implication therefore does not bar access to them." *Navajo Nation Department of Child Support v. Navajo Nation Labor Commission*, No. SC-CV-22-06, slip op. at 5 (Nav. Sup. Ct. August 24, 2006).

### **§ 85. Protected records**

A. The following records are private or otherwise protected and shall not be considered public for purposes of required disclosure;

1. Records concerning an individual's eligibility for social services, welfare benefits, or the determination of benefit levels;

2. Records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data, including psychiatric or psychological data;

3. Records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

4. Records concerning a current or former employee of, or applicant for employment with, a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under 2 N.N.C. § 84 (A) (2) or (B) (11);

5. Records describing an individual's finances, except that the following are public;

a. Records described in 2 N.N.C. § 84(A);

b. Navajo Nation Economic Disclosure Statements filed with the Ethics and Rules Office by elected public officials and candidates for elected public office, pursuant to 2 N.N.C. § 3762;

c. Loan applications for Navajo Nation loans to elected public officials and appointed public officials submitted to the Government Services Committee for approval, pursuant to Section 7(c) of the Personal Loan Operating Policies and Guidelines, approved by Resolution CLO-19-88; or

d. Records that must be disclosed in accordance with another statute or duly adopted rules and regulations of a governmental entity;

7. The negotiating position of the Navajo Nation before a contract, lease, or other agreement is entered into;

8. Records prepared by or on behalf of a governmental entity solely in anticipation of litigation that are not available under the rules of discovery;

9. Information, research, and discussions conducted by the public bodies of the Navajo Nation during executive sessions;

10. Memoranda prepared by staff and used in the decision-making process by a judge or a member of any other body charged by law with performing a quasi-judicial function;

11. Information received in response to an invitation for bids or request for proposals before a contract is awarded. Such information will also remain unavailable to the general public after a contract is entered into provided that the information contained in the bid or proposals is proprietary in nature, or otherwise to remain confidential at the request of the person submitting the bid or proposal;

12. Information contained within or related to a contract, lease or other agreement which is proprietary in nature or otherwise to remain confidential at the request of any party to the contract, lease or other agreement;

13. Records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

14. Records which are sealed or otherwise protected by court order due to the sensitive nature of the record in which the privacy interest of the person outweighs the public interest in the information;

15. Records to which access is restricted pursuant to court rule or as a condition of participation in a state or federal program or for receiving state or federal funds;

16. Drafts, unless otherwise classified as public;

17. Information related to the location of an individual member of any threatened or endangered species, such that that individual could be placed further at risk;

18. Information which cannot be released without interfering with

an individual's right to exercise or practice his chosen religion;

19. Information otherwise protected by applicable laws;

20. Other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of privacy.

B. Upon request, a governmental entity shall disclose a private or otherwise protected record as provided for in 2 N.N.C. § 86.

### **History**

CAP-48-99, April 23, 1999

### **Annotations**

#### **1. Construction and application**

"The Navajo Nation Code prohibits court staff from distributing certain types of court information, requires certain proceedings to be closed to the public, and prohibits certain people from revealing information concerning specific types of cases." *Johnson et al. v. Tuba City District Court, and concerning Yellowman*, No. SC-CV-12-07, slip op. at 7 (Nav. Sup. Ct. November 7, 2007).

"The first category is 'records that must be disclosed,' or 'public records,' and the second is records that cannot be disclosed, or 'protected records'." *Navajo Nation Department of Child Support v. Navajo Nation Labor Commission*, No. SC-CV-22-06, slip op. at 3 (Nav. Sup. Ct. August 24, 2006).

#### **§ 86. Access to protected documents**

Upon request, protected records will be available for disclosure, as follows:

A. Information shall be available for criminal and civil law enforcement for prosecution purposes, internal audit, as a result of a court order, to further an individual's medical treatment, and to address public health needs.

B. Information relating to an individual shall be available to the individual who is the subject of the record, or if a minor, shall be available to the parent or guardian subject to any applicable court order.

C. Individual records may be released to third parties with the written permission, by means of a notarized release, of the individual who is the subject of those records, or his or her parent or legal guardian if a minor.

D. Individual records may be used for statistical and other purposes provided that any information which could be used to identify the individual specifically is removed or withheld.

E. Information about an individual will always be available to other Navajo Nation governmental entities subject to the general restrictions above.

F. Before releasing a protected record, the governmental entity shall

obtain evidence of the requester's identity.

G. Before releasing a protected record, the governmental entity shall inform the requester that he or she is prohibited from disclosing or providing a copy of the protected record to any other person and shall obtain the requester's written acknowledgment of this prohibition.

#### **History**

CAP-48-99, April 23, 1999

#### **§ 87. Segregation of records**

A. Notwithstanding any other provision in this Subchapter, if a governmental entity receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect, and, if the information the requester is entitled to inspect is intelligible and able to be segregated, the governmental entity;

1. Shall allow access to information in the record that the requester is entitled to inspect under this Subchapter; and

2. May deny access to information in the record if the information is exempt from disclosure to the requester, issuing a notice of denial as provided in 2 N.N.C. § 89.

B. If there is more than one subject of a protected record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

#### **History**

CAP-48-99, April 23, 1999

#### **§ 88. Procedures**

A. Every person has the right to inspect a public record free of charge, and the right to take a copy of a public record during normal working hours, subject to Subsection (H).

B. All records are public unless otherwise expressly provided by statute.

C. A person making a request for a record shall furnish the governmental entity with a written request containing his name, mailing address, daytime telephone number, if available, and a description of the records requested that identifies the record with reasonable specificity. The request for information shall be addressed to the governmental entity primarily responsible for compiling such records.

D. A governmental entity is not required to create a record in response to a request. However, upon request, a governmental entity shall provide a record in a particular format if:



1. The governmental entity is able to do so without unreasonably interfering with the governmental entity's duties and responsibilities; and

2. The requester agrees to pay the governmental entity for its additional costs actually incurred in providing the record in the requested format.

E. Nothing in this Section requires a governmental entity to fulfill a person's records request if the request unreasonably duplicates prior records requests from that person.

F. Within 90 days, the governmental entity shall respond to the request by:

1. Approving the request and providing the record;

2. Denying the request by providing a written explanation of why the record is protected from disclosure. In making such determinations, the governmental entity shall consult with the Department of Justice; or

3. Notifying the requester that it does not maintain the record and providing, if known, the name and address of the governmental entity that does maintain the record.

G. In the event that the governmental entity determines that the requested record is protected from disclosure, or fails to respond to the request within the 90 day period, the requesting party may make application to the District Court, as defined in 7 N.N.C. § 253, in accordance with the proper processes of the Court for an order compelling the release of the record.

1. This application must meet the notice and filing requirements of the Navajo Nation Sovereign Immunity Act, 1 N.N.C. § 551, *et seq.*

2. Any person who may have an interest in maintaining the confidentiality of the record may appear and demonstrate the need for maintaining the confidentiality of such record.

3. In determining the availability of any record requested, the District Court shall apply the standards set forth in 2 N.N.C. §§ 84 and 85.

H. The Navajo Nation may assess the reasonable costs for photocopying and other activities associated with providing the record against the person requesting the record.

I. The implementation of the Navajo Nation Privacy and Access to Information Act shall be subject to rules and regulations duly adopted by the Government Services Committee. Records released may be subject to reasonable restrictions on use, pursuant to such rules and regulations of the Government Services Committee.

#### **History**

CAP-48-99, April 23, 1999

**§ 89. Denials**

A. If the governmental entity denies the request in whole or in part, it shall provide a notice of denial to the requester either in person or by sending the notice to the requester's address.

B. The notice of denial shall contain the following information:

1. A description of the record of portions of the record to which access was denied, provided that the description does not disclose protected information;

2. Citations to the provisions of this Subchapter, court rule or order, state or federal statute or regulation that exempt the record or portions of the record from disclosure, provided that the citations do not disclose protected information;

3. A statement that the requester has the right to make application to the District Court for an order releasing the record and the time limits for filing the application.

C. Unless otherwise required by a court of competent jurisdiction, a governmental entity may not destroy or give up custody of any record to which access was denied until the period of an appeal has expired or the end of the appeals process.

**History**

CAP-48-99, April 23, 1999

**§ 90. Ordinances adopted in compliance with this Subchapter**

A. Each governmental entity may adopt an ordinance or a policy applicable throughout its jurisdiction relating to information practices including access, denials, segregation, and appeals.

B. If any governmental entity does not adopt and maintain an ordinance or policy, that governmental entity is subject to this Subchapter.

C. Notwithstanding the adoption of an ordinance or policy, each governmental entity is subject to 2 N.N.C. §§ 83, 84 and 85.

D. Each ordinance or policy shall establish access criteria, procedures, and response times for requests to inspect or obtain records of the governmental entity, and time limits for appeals.

E. Each ordinance or policy shall establish an appeals process for persons aggrieved by the access decisions, allowing petition for judicial review to the District Court as set forth at 2 N.N.C. § 88(G).

**History**

CAP-48-99, April 23, 1999

**§ 91. Criminal penalties**

A. A public employee or other person who has lawful access to any protected record under this Subchapter, who intentionally discloses or provides a copy of a protected record to any other person is guilty of an offense and upon conviction thereof shall be punished by a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000).

B. It is a defense to prosecution under Subsection (A) that the actor released protected information in the reasonable belief that the disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office, or misappropriation of public funds or property.

C. A person who by false pretenses, bribery, or theft, gains access to or obtains a copy of any protected record to which he is not legally entitled is guilty of an offense and upon conviction thereof shall be punished by a fine of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000). No person shall be guilty who receives the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.

D. A public employee who intentionally refuses to release a record the disclosure of which the employee knows is required by law or by final unappealed order from a governmental entity or a court is guilty of an offense and upon conviction thereof shall be punished by a fine of not less than one thousand dollars (\$1,000) not more than five thousand dollars (\$5,000).

**History**

CAP-48-99, April 23, 1999

**§ 92. Civil penalties**

A. A non-Indian who has lawful access to any protected record under this Subchapter, who intentionally discloses or provides a copy of a protected record to any other person is subject to civil penalties of not less than one thousand dollars (\$1,000) nor more than five (\$5,000).

B. It is a defense to a civil action under Subsection (A) that the non-Indian actor released protected information in the reasonable belief that the disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office, or misappropriation of public funds or property.

C. A non-Indian person who by false pretenses, bribery, or theft, gains access to or obtains a copy of any protected record to which he is not legally entitled is subject to civil penalties of not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000). No person shall be subject to civil penalties who receives the record, information, or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery, or theft.

D. A non-Indian public employee who intentionally refuses to release a record the disclosure of which the employee knows is required by law or by final unappealed order from a governmental entity or a court is subject to civil penalties of not less than one thousand dollars (\$1,000) not more than five thousand dollars (\$5,000).

E. Any non-Navajo person within the Navajo Nation's jurisdiction, as defined at 7 N.N.C. § 254, having been found to be in repeated violation of this Subchapter may be subject to the exclusionary provisions of the Navajo Nation, as provided at 17 N.N.C. § 1901 *et seq.*

#### **History**

CAP-48-99, April 23, 1999

### **Chapter 3. Legislative Branch**

#### **Subchapter 1. Navajo Nation Council**

##### **§ 101. Establishment**

A. There is hereby established the Legislative Branch of the Navajo Nation government. The Legislative Branch shall consist of the Navajo Nation Council and any entity established under the Navajo Nation Council.

B. This § 101(A) shall not be amended unless approved by majority of all registered Navajo voters through a referendum.

#### **History**

CD-68-89, December 15, 1989.

**Note.** § 101 was amended by CD-68-89; previous § 101 language is now at § 102.

##### **§ 102. Powers; composition**

A. The Navajo Nation Council shall be the governing body of the Navajo Nation and shall consist of 88 delegates. This § 102 (A) shall not be amended unless approved by majority vote of all registered voters in all precincts.

B. All powers not delegated are reserved to the Navajo Nation Council.

C. The Navajo Nation Council shall supervise all powers delegated.

D. The Navajo Nation Council shall have all powers to discipline and/or regulate the conduct of its members, including removal.

E. The Navajo Nation Council shall have the authority to promulgate rules, regulations and procedures for the conduct of its meetings and that of its committees.

F. The Navajo Nation Council shall confirm the appointments of all division directors upon recommendation from the appropriate oversight

committee. The President shall present the appointments at the next Navajo Nation Council session following the date the appointments are made.

G. The Navajo Nation Council shall establish standing committees of the Council and delegate such authority to such committees as it deems necessary and proper for such committees to execute the purposes delegated.

### **History**

CD-68-89, December 15, 1989. "Composition" of the Navajo Nation Council was previously at § 101. Pursuant to CD-68-89, "Composition" was redesignated at § 102 and "powers" were added.

CJY-55-82, July 7, 1982. Substituted "88" for "87".

CJN-49-78, June 5, 1978. Substituted "87" for "74".

Rules governing Tribal Council, July 1938, VII, 1954 Res. 190 *et seq.*, app. by Councilmen and General Superintendent, recommended for approval by Commissioner, app. by Secretary of Interior July 26, 1938. Amendments app. September 17, 1938, and March 27, 1939.

### **Cross References**

Navajo Nation Council, Rules of Order adopted, see CJA-1-04.

Navajo Nation Election Code, see 11 N.N.C. § 1 *et seq.*

### **Annotations**

#### **1. Legislative body; jurisdiction of Secretary of Interior**

"The Navajo Government has been called 'probably the most elaborate' among tribes ... The legitimacy of the Navajo Tribal Council, the freely elected governing body of the Navajos, is beyond question ... [N]either Congress nor the Navajos have found it necessary to subject the Tribal Council's tax laws to review by the Secretary of the Interior.... " *Kerr McGee Corp. v. Navajo Tribe*, 471 U.S. 195 (1985).

#### **2. Powers of Navajo Nation Council**

"The Navajo Nation Council may not amend Section 102(A) independently; it must defer to the will of the Navajo People." *In the Matter of Two Initiative Petitions Filed by Navajo Nation President Joe Shirley, Jr.*, No. SC-CV-41-08, slip op. at 9 (Nav. Sup. Ct. July 18, 2008)—(Order of Correction entered July 22, 2008).

"If a Chairman or Vice Chairman is not exercising powers as defined by the Council, or if the powers are not exercised in the best interests of the Navajo people, or if the powers are being used to provide for personal gain or profit, then surely the Council can restrict use of those powers." *In re: Certified Questions II*, 6 Nav. R. 105, 116 (Nav. Sup. Ct. 1989).

" ... [T]he offices of Chairman and Vice Chairman were created by the Council

and whatever powers are in those offices were placed there by the Council. Without the Council giving and defining those powers the Chairman's or Vice Chairman's powers would not exist." *In re: Certified Questions II*, 6 Nav. R. 105, 116 (Nav. Sup. Ct. 1989).

"The question then arises whether the Navajo Tribal Council can place a Chairman or Vice Chairman on administrative leave with pay. The answer is yes, because the power to place those officials on leave is a part of the power the Council has to withdraw, limit, or supervise the exercise of powers it has bestowed on the offices of Chairman and Vice Chairman." *In re: Certified Questions II*, 6 Nav. R. 105, 115 (Nav. Sup. Ct. 1989).

"The Navajo Nation Council clearly has authority to withdraw, limit, or supervise the exercise of power it gives to the offices of Chairman and Vice Chairman. The power to create an office and delegate authority to that office includes the power to abolish, withdraw, limit, or supervise exercise of those powers by the office holder. The Navajo Tribal Council can prevent a Chairman and Vice Chairman from exercising certain powers it has delegated to the offices of Chairman and Vice Chairman, and the Council can specify how those powers can be exercised. The latter has frequently been done by the Council as shown by the history of Navajo government." *In re: Certified Questions II*, 6 Nav. R. 105, 115 (Nav. Sup. Ct. 1989).

### **3. Retroactive legislation**

"The prohibition against retroactive legislation is not absolute, and '[r]etroactivity provisions often serve entirely benign and legitimate purposes, whether to respond to emergencies, to correct mistakes, to prevent circumvention of a new statute in the interval immediately preceding its passage, or simply to give comprehensive effect to a new law Congress considers salutary.'.... The question to be asked when examining a statute for prohibited retroactivity is 'whether the new provision attaches new legal consequences to events completed before its enactment,' or whether the new provisions affect existing contract or property rights .... Legislation which impairs vested rights retroactively cannot stand." *Ramah Navajo Community School v. Navajo Nation*, No. SC-CV-17-99, slip op. at 6-7 (Nav. Sup. Ct. July 25, 2001).

### **4. Presumptions**

"... [R]esolutions of the Navajo Tribal Council are presumed to be valid and the party seeking to challenge the validity of any Council resolution has the burden of rebutting that presumption with clear evidence to the contrary." *Thompson v. Navajo Nation*, 6 Nav. R. 181, 184 (Nav. Sup. Ct. 1990).

### **5. Waiver**

"It is also true that when dealing with the sovereign powers of the Nation, only clear, unmistakable words of the Council or its properly empowered designee can waive governmental authority. To decide whether an alleged waiver is unmistakable, the Court looks to the language of the purported waiver, the agreement as a whole, and the legal context within which the agreement was entered." *Thinn v. Navajo Generating Station, Salt River Project; and Gonnie v. Headwaters Resources*, No. SC-CV-25-06 and No. SC-CV-26-06, slip op. at 5 (Nav.

Sup. Ct. October 19, 2007), citing *Office of Navajo Labor Relations ex rel. Bailon v. Central Consolidated School Dist. No. 22*, No. SC-CV-37-00, slip op. at 4-5 (Nav. Sup. Ct. June 23, 2004).

## **6. Delegation**

"Because employment is central to living a good life, in that it provides for the well being of the people, the duty and authority to legislate or regulate for the protection of employees and employers cannot be delegated to a non-Navajo entity." *Thinn v. Navajo Generating Station, Salt River Project*; and *Gonnie v. Headwaters Resources*, No. SC-CV-25-06 and No. SC-CV-26-06, slip op. at 8 (Nav. Sup. Ct. October 19, 2007).

## **§ 103. Qualifications**

No person shall serve as a delegate to the Navajo Nation Council unless he or she is an enrolled member of the Navajo Nation above the age of 25.

### **History**

CD-68-89, December 15, 1989.

CAP-41-82, April 28, 1982. Lowered age requirement from "30" to "25".

Rules governing Tribal Council July 1938, Ch. 1, § 10, 1954 Res. p. 192. The substance of this Section was previously codified at § 102.

### **Cross References**

Member qualifications, Navajo Nation Election Code, see 11 N.N.C. § 8.

## **§ 104. Incompatible service**

A. No person shall serve as a delegate if he or she is in the permanent employment of the United States or any state or any subdivisions thereof; nor shall an elected official of the United States or the several states thereof serve as a delegate. This Section shall not apply to service on a school board or elective county office.

B. No person shall be eligible for election to the Navajo Nation Council if that person is permanently employed or an elected official as described in § 104(A).

C. If any delegate, after his/her election, enters such service, the delegate shall immediately forfeit his/her office as a Council Delegate.

D. No Council Delegate shall engage in the private practice of law while serving as a Navajo Nation Council Delegate.

### **History**

CD-68-89, December 15, 1989; previously at § 103. Subsection (A) amended and Subsections (B) and (D) added.

CAU-40-84, August 9, 1984. Effective October 8, 1984, former provision of this Section forbidding a person from serving as a Tribal Council Delegate if he or she was in the employment of "any private employer with business interests on the Navajo Reservation" was rescinded, as contrary, inconsistent with, and superseded by, the Navajo Nation Ethics in Government Law, 2 N.N.C. §§ 3751-3761.

Order No. 1912 of the United States Department of the Interior, December 20, 1943. Employment in Indian Service.

Rules governing Tribal Council, July 1938, Ch. 1, §§ 11, 12, 1954 Res. p. 192.

#### **Cross References**

Navajo Nation Election Code, see 11 N.N.C. Part 1, § 8.

#### **Annotations**

##### **1. Elected official of the states**

"In Navajo thinking, the selection of a person by voters is one of two requirements for a candidate to become a *naat'áanii*. That person must also accept the position, and, to accept, must take an oath to serve the laws of the sovereign government within whose system he or she will serve the people- '*naat'áanii ádee hadidziih.*' Only when a person accepts through an oath will all of the Navajo people say that a person has been properly installed as a *naat'áanii*- '*naat'áanii idl9 bee b'itsoosz99.*' In other words, '*Diné binant'í bee bi'doosz99d*' or '*Diné binaat'áanii bee bi'doosz99d*' [ ... ] The oath is absolute, and allows no conflict in loyalty. This requirement of absolute loyalty is reiterated in the Election Code itself, as one of the qualifications for a council delegate is that he or she must 'maintain unswerving loyalty to the Navajo Nation.' 11 N.N.C. § 8(B)(5) (2005). Under these principles, a person may not swear allegiance to obey and serve simultaneously the laws of the Nation and the State of New Mexico. The prohibition is then consistent with our Fundamental Law, and it is not improper for the Election Code to require Tsosie to serve only one government." *In the Matter of the Grievance of: Wagner, and concerning, Tsosie*, SC-CV-01-07, slip op. at 7-8 (Nav. Sup. Ct. May 14, 2007).

##### **§ 105. Term of office**

A. Each delegate to the Navajo Nation Council shall serve for a term of four years.

B. A delegate shall not be limited in the number of terms he or she may serve.

#### **History**

CD-68-89, December 15, 1989; previously at § 104; Subsection (B) added.

Rules governing Tribal Council July 1938, Ch. 1, § 9, 1954 Res. 192.



## **Cross References**

Term of office, Navajo Nation Election Code, see 11 N.N.C. § 6.

### **§ 106. Compensation of Council Delegates**

A. Delegates shall be compensated by an annual salary of twenty-five thousand dollars (\$25,000) per year. All Council Delegates shall be paid bi-weekly. A salary increase may be approved by the Navajo Nation Council but shall not become effective unless ratified by two-thirds (<sfr>2/3<efr>) of all Navajo Nation Chapters within 30 days of approval by the Navajo Nation Council. The provisions of this Section shall not apply to mileage payments, per diem payments, deferred compensation benefits or any other payments or benefits which are separate from the bi-weekly base salary established in this Section.

B. Delegates attending a Navajo Nation Council meeting or their respective committee meetings may receive sixty dollars (\$60.00) per diem for each day official business is conducted and mileage reimbursement for use of a private vehicle at the rate established in the Navajo Nation Travel Policy and Procedures Handbook, and amendments thereto. Chairpersons of Committees may receive as compensation for extra time spent by the Chairperson beyond meetings to execute committee business eighty dollars (\$80.00) per diem for each committee meeting day.

C. For every week of a session of the Navajo Nation Council, delegates shall be paid mileage equal to one round trip to Window Rock from their residence and return, according to the official mileage chart of the Controller.

D. For each complete committee meeting delegates to the Navajo Nation Council shall be paid mileage equal to one round trip to Window Rock, from their residence and return, according to the official mileage chart of the Controller.

E. Full per diem shall be paid only for attendance of at least three hours of meeting or until all agenda items are concluded.

F. Delegates, or their beneficiary in the event of death, are paid a deferred compensation benefit when they leave office.

## **History**

CJY-63-00, Override of Presidential Veto, CJY-52-00, Amending §§ 106(A) and 1008 to Adjust the Salaries of the Navajo Nation President, Vice-President, and Navajo Nation Council Delegates by ten thousand dollars (\$10,000). Determined legally invalid. See, *Judy v. White*, No. SC-CV-35-02, slip op. (Nav. Sup. Ct. August 2, 2004).

CJA-16-00, Override of Presidential Veto, CO-98-99, Amending § 106(A) to Eliminate the Ratification Requirement of Two-Thirds of All Navajo Nation Chapters. Not effective, as amendment failed to receive approval by <sfr>2/3<efr> of Navajo Nation Chapters.

CJA-15-00, Amending § 106(B) Mileage Rate in Accordance with the Navajo Nation

Travel Policy and Procedures Handbook.

CAU-73-97, August 22, 1997, Override of Presidential Veto, CJY-49-97, Amending § 106(A) to Exclude Certain Council Delegate Fringe Benefits.

CD-68-89, December 15, 1989; previously at § 107. Subsection (A) increased salary to twenty-five thousand dollars (\$25,000). Also added second sentence. Subsection (B): amended generally. Subsection (E) and (F) added.

CJY-52-85, July 24 1985. Subsection (A) increased salary to twenty-one thousand dollars (\$21,000).

1982 Amendment. Increased salary to twenty thousand dollars (\$20,000).

CMY-26-79, May 4, 1979. Subsections (A) and (B) increased compensation.

1978 Budget, pages 1-2, 1-6. Subsection (B) raised per diem allowance from thirty dollars (\$30.00) to forty dollars (\$40.00).

1976 Budget, Div. 0, Dept. 0 1. Increased compensation per year and per diem.

1974 Budget, Div. 0, Dept. 0 1. Deleted provision-raising per diem for trips away from home.

1972 Budget, Div. 0, Dept. 01. Increased compensation per year and per diem.

CMY-49-65, May 4, 1965. Rescinded CJY-34-63. Subsection (A) increased salary to five thousand two hundred ninety-seven dollars (\$5,297).

CJY-34-63, rescinded CAP-9-63. Subsection (A) increased salary to three thousand dollars (\$3,000) and the per diem for each Council session to eighteen dollars (\$18.00).

CAP-9-63, April 23, 1963. Subsection (A) provided an annual salary of two thousand seven hundred dollars (\$2,700), payable bi-weekly, instead of the twenty-seven dollars (\$27.00) per day.

CAU-41-61, August 22, 1961. CAU-40-61, August 22, 1961. Repealed CMY-23-60 and CJY-45-60.

CJY-45-60, July 14, 1960.

CMY-23-60, May 4, 1960. CJY-35-58 repealed.

CJ-35-58, July 21, 1958.

CM-42-53, May 15, 1953.

CM-39-53, May 13, 1953.

1922-1951, Res. P. 573, passed September 13, 1951; 1922-1951 Res. p. 572, passed August 24, 1951; 1922-1951 Res. p. 569, passed April 13, 1950; 1922-1951 Res. p. 567, passed October 14, 1949; 1922-1951 Res. p. 566, passed November 4, 1947; 1922-1951 Res. p. 565, passed February 21, 1947; 1922-1951

Res. p. 555, passed November 8, 1938; 1922-1951 Res. p. 553, passed July 23, 1937, provided compensation for Council Delegates in such forms as salaries, wages, fees, expenses, mileage, and per diem, subject to various limitations and exceptions.

**Note.** For the Deferred Compensation Plan referred to at Subsection (F), see BFMY-41-73 as amended by BFD-251-82, BFD-212-86 and BFMY-26-91. See also CF-21-73 authorizing the Plan.

## **Annotations**

### **1. Purpose**

"CJY-52-00 was adopted by the Navajo Nation Council on July 20, 2000, to amend 2 N.N.C. § 106 to increase the salaries of the Council delegates, the president and vice president." *Judy v. White*, No. SC-CV-35-02, slip op. at 18 (Nav. Sup. Ct. August 2, 2004).

### **2. Construction and application**

"Lastly, we consider the District Court's mandate that White 'take such actions as may be necessary to recoup illegal payments of salary, deferred compensation or tax contributions by the Navajo Nation, and to seek assistance of pertinent Navajo Nation officials for such purposes.' *Judy v. White*, No. CH-CV-53-01, slip op. At 12 (Chin.Dist.Ct. August 21, 2002). We reverse and vacate the district court's judgment." *Judy v. White*, No. SC-CV-35-02, slip op. at 24 (Nav. Sup. Ct. August 2, 2004).

"2 N.N.C. § 106(A), as codified, is the only valid legislation which can form the basis for Council Delegate salary increases." *Judy v. White*, No. SC-CV-35-02, slip op. at 22 (Nav. Sup. Ct. August 2, 2004).

### **3. Validity**

"Resolution CJY-52-00 is invalid, and any payment of salaries in excess of those mandated by 2 N.N.C. §§ 106(A) and 1008 is illegal. We therefore affirm the trial court's decision invalidating CJY-52-00." *Judy v. White*, No. SC-CV-35-02, slip op. at 22 (Nav. Sup. Ct. August 2, 2004).

### **§ 107. Advances to Council Delegates**

A. Temporary travel advances to a Council Delegate, not to exceed the reasonable expected cost and expenses of authorized travel, may be made by the Controller upon written authorization of the Speaker of the Navajo Nation Council.

B. Claims for reimbursement of travel expenses shall be submitted to the Controller promptly upon completion of travel. Travel advances outstanding at the time reimbursement claims are submitted shall be deducted from the amount being claimed.

C. Temporary travel advances not cleared, either partially or completely, within 30 days from the date of advance shall be deducted from the next bi-weekly Council Delegate's pay.

D. Salary advances to a Council Delegate, not to exceed fifteen thousand dollars (\$15,000) during any bi-weekly pay period, may be made by the Controller or his or her designee.

E. Salary advances made to a Council Delegate during any bi-weekly pay period shall be deducted in amounts not less than fifty dollars (\$50.00) from his or her bi-weekly pay, unless larger deductions are authorized in writing by the individual Council Delegate.

F. The Navajo Nation shall have the right to deduct from any and all moneys or other credits which the Navajo Nation owes to any Council Delegate receiving an advance under this Section, an amount equal to the total funds advanced at any time within 30 days prior to the expiration of the Council Delegate's term of office, or at any other time after the Council Delegate leaves his or her office for any reason whatsoever, whether voluntary or involuntary.

#### **History**

CJA-12-99, July 23, 1997, Amending § 107(D) Increasing Council Delegate Salary Advances Not to Exceed twenty-five thousand dollars (\$25,000), Presidential Veto Exercised, February 4, 1999.

CJY-54-97, July 23, 1997, Amending § 107(D) Increasing Council Delegate Salary Advances Not to Exceed fifteen thousand dollars (\$15,000).

CJY-56-96, July 17, 1996, Amending § 107(D) Increasing Council Delegate Salary Advances Not to Exceed five thousand dollars (\$5,000).

CD-68-89, December 15, 1989. Amended generally. Previously at § 108.

CN-75-80, November 11, 1980. Subsections (D) and (E) rewritten.

CMY-38-74, May 1, 1974. Added Subsections (G) and (H).

**Note.** There no longer is a Subsection G; and the substance of Subsection (H) now is under Subsection (F).

CO-86-71, October 13, 1971. Substituted one thousand dollars (\$1,000) for five hundred dollars (\$500.00).

CAP-28-67, April 27, 1967. Subsection (D) changed one hundred dollars (\$100.00) to five hundred dollars (\$500.00); Subsection (E) provided that a sum not to exceed fifty dollars (\$50.00) be deducted from a Council Delegate's bi-weekly pay for special advances.

CJY-89-66, July 20, 1966.

#### **§ 108. Group insurance**

A. Navajo Nation group insurance shall be provided for Navajo Nation Council Delegates and their dependents

B. The Navajo Nation shall pay a percent of the insurance premium as its contribution.

#### **History**

CD-68-89, December 15, 1989. Amended generally. Previously at § 109.

CF-8-62, February 16, 1962. Extended coverage to dependents.

CF-9-58, February 11, 1958, app. April 28, 1958.

#### **Cross References**

See also, Navajo Nation Personnel Policies and Procedures.

#### **§ 109. Tax declarations and returns; deductions**

A. Each delegate to the Navajo Nation Council is a common law employee of the Navajo Nation for federal employment tax purposes.

B. The Controller of the Navajo Nation shall make deductions in the proper amounts from the salaries of the delegates to the Navajo Nation Council for federal income tax and social security income withholding.

C. Excluded from participating in the Navajo Nation Personnel Policy are the elected officials, public boards, volunteer, and any other contractual services agreements to provide services to the Navajo Nation Government.

#### **History**

CJY-59-00, July 21, 2000, Amending CAP-23-00 to become effective on July 1, 2000.

CAP-23-00, April 18, 2000, Amending § 109 Classifying Navajo Nation Council Delegates As Common-Law Employees for Federal Tax Purposes.

CD-68-89, December 15, 1989. Amended generally. Previously at § 110. CO-107-66, October 6, 1966.

#### **Annotations**

##### **1. Purpose**

"CAP-23-00 was adopted on April 18, 2000, to amend 2 N.N.C. § 109 to make Council delegates 'common law employees' of the Navajo Nation." *Judy v. White*, No. SC-CV-35-02, slip op. at 18 (Nav. Sup. Ct. August 2, 2004).

##### **2. Construction and application**

"Amendment of Section 109 did not require the Chapter ratification process as did Section 106(A), and for good reason. Whether a Delegate was self-employed or a common law employee, the salary remained at twenty-five thousand dollars (\$25,000). There was no significance to the change except a shift in the responsibility for payment of individual tax liability." *Judy v. White*, No.

SC-CV-35-02, slip op. at 23 (Nav. Sup. Ct. August 2, 2004).

### **3. Procedural considerations**

"In this respect, we disagree with the district court that CAP-23-00 was a salary increase and thus subject to the procedural demands of Section 106(A). We vacate the district court's decision." *Judy v. White*, No. SC-CV-35-02, slip op. at 24 (Nav. Sup. Ct. August 2, 2004).

"Had the Title II Amendments contemplated that additional tax benefits operate to increase Delegate salaries, it would have subjected Section 109 to the same Chapter ratification process. The Council recognized that the federal taxing process was keyed to the salary set by 106(A), and not an amount in addition to the salary. In passing CAP-23-00, the Council recognized that the legislation dealt only with employment benefits and, 'not salary increases for Council delegates,' CAP-23-00, Resolved Clause 2 (April 19, 2000)." *Judy v. White*, No. SC-CV-35-02, slip op. at 23 (Nav. Sup. Ct. August 2, 2004).

"Resolved Clause 7 does not comply with the procedural requirements of Section 165. Although the exhibits attached to the resolution carried the required overstriking and underlining, the clauses within the body of the resolution itself did not. We acknowledge that Section 165 was under contemporaneous consideration with Section 106(A) and had not yet become law, but we believe that the Council nonetheless intended then that amendments to any Navajo Nation statutory law ought to reflect the same deliberation and contemplation that it gave to the Title II amendments, given the then-recent governmental controversy. Therefore, we hold that Resolution CD-68-89, Resolved Clause 7 (1989) was not a legislative act carrying the weight of law." *Judy v. White*, No. SC-CV-35-02, slip op. at 21-22 (Nav. Sup. Ct. August 2, 2004).

## **Subchapter 2. Navajo Nation Council Meetings**

### **§ 161. Place**

A. All regularly scheduled or special meetings of the Navajo Nation Council shall be held at the Navajo Nation Council Chambers located at Window Rock, Navajo Nation (Arizona) with the following exceptions:

1. If the Chambers in Window Rock are unsuitable for meeting, because of fire, physical damage, remodeling or other cause the Speaker may designate an alternate meeting place in Window Rock, and give reasonable notice to all Council Delegates.

2. A majority of all Council Delegates may agree to hold a meeting in some location in Window Rock other than the Chambers. Such agreement may be by written petition or by motion at any regular or special session of the Navajo Nation Council.

### **History**

CD-68-89, December 15, 1989. Amended generally. Previously at § 110.

CF-29-72, February 3, 1972.

Rules governing Tribal Council, July 1938, Ch. VI, § 1, 1954 Res. p. 206.

### **Annotations**

#### **1. Validity of resolutions**

" ... [R]esolutions of the Navajo Tribal Council are presumed to be valid and the party seeking to challenge the validity of any Council resolution has the burden of rebutting that presumption with clear evidence to the contrary." *Thompson v. Navajo Nation*, 6 Nav. R. 181, 184 (Nav. Sup. Ct. 1990).

#### **§ 162. Number; time; duration**

A. There shall be four regular sessions of the Navajo Nation Council each year. Such Sessions shall commence at 10 a.m. on the fourth Monday of January, and the third Monday of April, July and October of each year.

B. Special meetings of the Navajo Nation Council may be called upon reasonable and timely notice to all Council Delegates, by:

1. The Speaker of the Navajo Nation Council acting on the recommendation of the Ethics and Rules Committee; or

2. Written petition of a majority of all Council Delegates.

C. The duration of each session shall be no more than five working days. Each meeting day of the Navajo Nation Council shall be for a minimum of six hours each day of the session.

### **History**

CJA-1-98, January 20, 1998. Changed the day of commencement for the Navajo Nation Council Winter Session from the third Monday to the fourth Monday of January, to accommodate celebration of the Martin Luther King federal holiday. CD-69-89, December 15, 1989. Generally, changed meeting dates, added a notice requirement for special meetings, limited the duration of sessions to five working days, and provided a minimum time requirement for each meeting day.

CF-29-72, February 3, 1972. Changed dates for regular meetings and added provision for special meetings.

CMY-60-66, May 16, 1966. Provided that the first meeting shall commence on the first Tuesday after the first Monday of January instead of the second Monday in January and that the duration of each meeting shall be determined by a majority vote of the Navajo Nation Council instead of jointly by the Area Director and the Chairperson of the Navajo Nation Council.

Tribal Council Res. 1922-1951, Res. p. 591, passed May 7, 1951.

#### **§ 163. Agenda**

A. The Navajo Nation Council shall adopt an agenda in accordance with written rules and procedures established by the Navajo Nation Council.

B. Once an agenda is adopted, it shall be amended only by two thirds (2/3) vote of the Council.

### **History**

CAP-83-93, April 22, 1993. Rules of Order were amended for budget deliberations.

CAP-24-90, April 30, 1990. Rules of Order for the Navajo Nation Council were adopted.

CD-68-89, December 15, 1989.

CF-29-72, February 3, 1972.

CMA-51-66, § 2, March 9, 1966.

1922-1951 Res. p. 592, May 7, 1951.

### **§ 164. Navajo Nation Council and committee resolutions procedure**

A. Statements of policy, enactment of positive law, intergovernmental agreements, budget resolutions, and reallocations, must be reviewed and approved by resolution by the appropriate standing committee(s) and the Navajo Nation Council except as otherwise provided herein.

1. Only Council delegates or Standing Committees may introduce a proposed resolution to the Standing Committee(s) and the Navajo Nation Council, except where Navajo government employees are authorized by statute or regulation to introduce proposed resolutions. Prior to introducing the proposed resolution, the Office of Legislative Counsel shall review and draft the proposed resolution for the council delegate(s) or standing committee(s) to ensure that the proposed resolution is drafted in a proper codified format. Where Navajo government employees are authorized to introduce proposed resolutions, they may seek the assistance of either the Office of Legislative Counsel or the Navajo Department of Justice.

2. Expressions of condolence, congratulations, appreciation, recognition of achievement and other similar expressions of sentiment shall not be drafted or processed as resolutions of the Navajo Nation Council or its standing committees but shall be issued by certificates from the Speaker of the Navajo Nation Council at the written request of any Council Delegate and in the manner set forth at 2 N.N.C. § 285(B) (7).

3. After the proposed resolution is drafted, the council delegate(s), standing committee(s) or Navajo government employee(s) shall present the proposed resolution to the Executive Director for the Office of Legislative Services who will assign a number to the proposed resolution.

4. After the proposed resolution is assigned a number, the Speaker of the Navajo Nation Council shall assign the proposed resolution to the



respective oversight committee(s) of the Navajo Nation Council having authority over the matters contained in the proposed resolution for proper consideration and distribute a photocopy of the proposed resolution to the Office of the President, Office of the Attorney General, Office of the Controller and the affected division, department and/or program. The chairpersons of the standing committees shall place the proposed resolution on the committees' agenda for consideration by the standing committee at the next regular committee meeting. Passage of the proposed resolution, defeating the proposed resolution and tabling the proposed resolution shall be considered as actions taken by the standing committee.

5. Proposed resolutions that require final action by the Navajo Nation Council shall be assigned to at least two standing committees; the oversight committee(s) and the Ethics and Rules Committee. The standing committees may markup the proposed resolutions, which will be presented as amendments. Only the Navajo Nation Council proposed resolution shall be introduced, and the Ethics and Rules Committee shall present the oversight committee(s) markup to the Council as amendment(s).

6. Proposed resolutions that do not require final action by the Navajo Nation Council shall be assigned to the respective standing committees authorized to act on the proposed resolutions and considered by said standing committee as provided in Subsection (3) above. Only the resolution for the committee having authority over the subject matter shall be introduced. The oversight committee not having final approval authority over the resolution may recommend amendments.

7. The Ethics and Rules Committee of the Navajo Nation Council shall, upon the recommendation of the Speaker of the Navajo Nation Council, develop the proposed agenda for the Navajo Nation Council 15 calendar days prior to the start of the regular sessions; all verbal and written reports shall be presented to the Council only on the first day of the regular sessions. The proposed resolutions to be placed on the proposed Navajo Nation Council agenda shall have completed the procedures set forth in Subsections (1), (2), (3), and/or (4) of this Section prior to placement on the agenda.

a. Resolutions which address matters which constitute an emergency shall not be subject to this provision. Matters constituting an emergency shall be limited to the cessation of law enforcement services, disaster relief services, fire protection services or other direct services required as an entitlement under Navajo Nation or Federal law, or which directly threaten the sovereignty of the Navajo Nation.

B. Agreements not requiring Committee or Council approval.

1. Subcontracts implementing agreements approved under § 164(A) above, grants providing funds to the Navajo Nation, contracts expending funds appropriated by the Navajo Nation Council, Letter of Assurance agreements, memoranda of understanding, memoranda of agreement and other agreements that do not expend funds, associated amendments shall not require approval by resolution by the Navajo Nation Council or its committees.

2. Prior to final execution as provided in 2 N.N.C. § 222, documents not requiring approval by resolution of the Navajo Nation Council or its committees shall be reviewed and signed by the following:

a. The appropriate Division Director for departments and activities under his or her supervision;

b. The Controller (or designee) for all documents having a financial impact on the Navajo Nation; and

c. The Attorney General of the Navajo Nation (or designee).

### **History**

CO-39-06, October 19, 2006. Amended Subsection (A)(2) providing for the issuance of certificates by the Speaker.

CAU-48-03, August 29, 2003, Overrode Presidential Veto of CJY-32-03.

CJY-32-03, July 22, 2003. Amended generally.

CAP-24-97, April 22, 1997. Amended generally. Subsections (B) and (C) were added. The time period for reviews was reduced from ten to five working days. Attorney General review was eliminated for certain proposed resolutions.

CD-68-89, December 15, 1989. Amended generally. Subsections (A)(2), (5), (6), (7), (C)(4), (D) and (E) were added.

CJA-14-72, January 26, 1972.

The review requirements were previously at § 165.

### **Annotations**

#### **1. Validity of resolutions**

" ... [R]esolutions of the Navajo Tribal Council are presumed to be valid and the party seeking to challenge the validity of any Council resolution has the burden of rebutting that presumption with clear evidence to the contrary." *Thompson v. Navajo Nation*, 6 Nav. R. 181, 184 (Nav. Sup. Ct. 1990).

#### **2. Construction and application**

" ... [B]ecause we have held that Title 2 of the Navajo Nation Code is an 'organic law' which takes precedence over other statutes, along with the Navajo Nation Bill of Rights, *Bennett v. Navajo Board of Election Supervisors*, 6 Nav. R. 319, 322-323 (1990), procedural requirements for the enactment of Navajo Nation legislation must be strictly observed." *In the Matter of Certified Question from the United States District Court for the District of Arizona and Concerning the Case of: Peabody Western Coal v. Nez, et al.*, No. SC-CV-49-00, slip op. at 5 (Nav. Sup. Ct. July 18, 2001). [Editor's note: This opinion (answer to certified question) was issued prior to amendments to 2 N.N.C. § 164 by CJY-32-03].

"We take judicial notice of the fact that the Navajo Nation Council adopts many kinds of resolutions, which may approve, disapprove or recommend some action, but not all are 'legislative acts' in the legal sense of statutes or legislation as such, which carry the weight of law." *In the Matter of Certified Question from the United States District Court for the District of Arizona and Concerning the Case of: Peabody Western Coal v. Nez, et al.*, No. SC-CV-49-00, slip op. at 3-4 (Nav. Sup. Ct. July 18, 2001). [Editor's note: This opinion (answer to certified question) was issued prior to amendments to 2 N,N,C § 164 by CJY-32-03].

"Acknowledging the presumption that the Navajo Nation Council will not enact legislation which would deny civil rights in contravention of the Navajo Nation Bill of Rights,<sup>1</sup> noting the procedures used to place the measure before the Navajo Nation Council, and given the lack of compliance with Navajo Nation statutes for the enactment of legislation, and an additional presumption that the Navajo Nation Council will follow the limitations it places on itself, we hold that the resolution is not a statute which carries the weight of law, but a declaration of the wishes of the Navajo Nation Council and guidance for future legislation." *In the Matter of Certified Question from the United States District Court for the District of Arizona and Concerning the Case of: Peabody Western Coal v. Nez, et al.*, No. SC-CV-49-00, slip op. at 2 (Nav. Sup. Ct. July 18, 2001). [Editor's note: This opinion (answer to certified question) was issued prior to amendments to 2 N,N,C § 164 by CJY-32-03].

"The statute, 2 N.T.C. § 164 (contained in comprehensive 1989 amendments to Title 2 of the Navajo Tribal Code, which are intended to establish the fundamental structure and operations of the Navajo Nation Government), is clearly mandatory rather than directive, and its procedures are a condition precedent to the enactment of valid legislation. The required procedure was not followed in the enactment of Council Resolution CO-80-90, and the same is void under the clear wording and meaning of 2 N.T.C. § 164." *Navajo Nation v. Redhouse*, 6 Nav. R. 305, 308 (Nav. Sup. Ct. 1990).

"A vote of two-thirds of a quorum of the Navajo Nation Council is necessary to modify or change such powers [in 2 N.N.C. § 873]." *Navajo Nation v. Redhouse*, 6 Nav. R. 305, 307 (Nav. Sup. Ct. 1990).

#### **§ 165. Legislation and reading**

**A. All resolutions proposing new laws or amendments of laws are legislation and shall clearly indicate new language by underscoring the new language and deletion by overstrike and shall refer to appropriate Navajo Nation Code Titles and Sections.**

**B. All proposed resolutions enacting new laws, amending existing laws, or adopting a statement of policy shall be read twice in their entirety to the members of the Navajo Nation Council, the exhibits attached to the proposed resolutions shall be identified by reference only; these proposed resolutions are subject to veto by the President of the Navajo Nation, pursuant to 2 N.N.C. § 1005(C)(10) and (11), with the exception of those proposed resolutions approving internal procedures and policies of, or endorsements from, the Navajo Nation Council which are not subject to veto but become effective upon certification by the Speaker pursuant to 2 N.N.C. § 221(C).**

### **History**

CO-39-06, October 19, 2006. Amended Subsection (B).

CAU-48-03, August 29, 2003, Overrode Presidential Veto of CJY-32-03.

CJY-32-03, July 22, 2003. Added Subsection B.

CD-68-89, December 15, 1989.

### **Annotations**

#### **1. Construction and application**

"Resolved Clause 7 does not comply with the procedural requirements of Section 165. Although the exhibits attached to the resolution carried the required overstriking and underlining, the clauses within the body of the resolution itself did not. We acknowledge that Section 165 was under contemporaneous consideration with Section 106(A) and had not yet become law, but we believe that the Council nonetheless intended then that amendments to any Navajo Nation statutory law ought to reflect the same deliberation and contemplation that it gave to the Title II amendments, given the then-recent governmental controversy. Therefore, we hold that Resolution CD-68-89, Resolved Clause 7 (1989) was not a legislative act carrying the weight of law." *Judy v. White*, No. SC-CV-35-02, slip op. at 21-22 (Nav. Sup. Ct. August 2, 2004).

#### **§ 166. Record of proceedings; interpreters; access to records**

A. Proper records of the proceedings of the Navajo Nation Council and all standing committees, boards and commissions shall be kept and the necessary interpreting services shall be provided by the Office of Legislative Services.

B. Access to records of the proceedings of the Navajo Nation Council, standing committees, boards and commissions shall be provided to the public through the Office of Legislative Services and the Central Records Department.

### **History**

CD-68-89, December 15, 1989. Added Subsection (B), and redesignated § 167 as § 166.

CF-29-72, February 3, 1972.

Rules governing Tribal Council, July 1938, Ch. VI, § 4, 1954 Res. p. 206.

**Note.** Subsection (B) slightly reworded for clarity.

#### **§ 167. Failure to attend**

All delegates to the Navajo Nation Council shall attend all regular and special meetings of the Navajo Nation Council or Committees. If any delegate is absent from sixty percent (60%) of the meeting days within a one year period, the Navajo Nation Council may consider a motion to censure said

delegate. If his/her absence continues, the Navajo Nation Council shall have the authority to declare the delegate's seat forfeited and vacant.

#### **History**

CD-68-89, December 15, 1989. Amended generally. Previously at § 169.

CF-29-72, Exhibit A, § D, February 3, 1972;

Prior language provided that a Council Delegate unable to attend meetings for a year resign.

Rules governing Tribal Council, July 1938, Ch. VI, § 4, 1954 Res. p. 206.

#### **§ 168. Sergeant at Arms; appointment; duties**

A. The Director of the Division of Public Safety shall designate a member of the Navajo Nation police force to fill the post of Sergeant at Arms.

B. The Sergeant at Arms shall maintain order under the direction of the Speaker or Presiding Chairperson of the Navajo Nation Council or Committees and shall make appropriate arrangements for maintenance of law and order during Council and Committee sessions.

#### **History**

CD-68-89, December 15, 1989. Amended generally; previously at § 171.

CJ-54-53, July 22, 1953.

Tribal Council Res. 1922-1951 Res. p. 591, May 7, 1951.

#### **§ 169. Quorum**

A. A quorum shall consist of a simple majority of all voting members of the Navajo Nation Council.

B. No resolution or motion of the Navajo Nation Council or its Standing Committees shall be passed or otherwise acted upon unless a quorum is present. When a quorum is present, any motion or resolution shall be passed if it receives a majority of all votes cast in favor or opposed, unless a larger proportion than a simple majority has been properly stipulated in advance or is required by Navajo Nation law. Abstention vote may be cast only when a delegate has a personal interest conflict in the motion of the Council or Standing Committee. Only a vote in favor and opposed shall be accepted. A delegate who fails to cast a vote shall be declared absent from the whole meeting. Any delegate who intentionally fails or refuses to cast a vote shall be declared absent from the entire meeting, unless otherwise excused by the Speaker of the Navajo Nation Council.

#### **History**

CAU-48-03, August 29, 2003, Overrode Presidential Veto of CJY-32-03.

CJY-32-03, July 22, 2003. Added language to Subsection B, changing the voting requirements for Council Delegates.

CD-68-89, December 15, 1989. At Subsection (B) added were provisions addressing votes acceptable and Council Delegates not casting votes. Previously at § 172.

CF-29-72, February 3, 1972.

### **Annotations**

#### **1. Construction and application**

"A vote of two-thirds of a quorum of the Navajo Nation Council is necessary to modify or change such powers [in 2 N.N.C. § 873]." *Navajo Nation v. Redhouse*, 6 Nav. R. 305, 307 (Nav. Sup. Ct. 1990).

### **Subchapter 3. Navajo Nation Council Committees—Generally**

#### **§ 180. Appointment**

Each delegate to the Navajo Nation Council shall be appointed to no more than one standing committee and no more than one board or commission of the Navajo Nation excluding membership on the Intergovernmental Relations Committee; except that the Speaker of the Navajo Nation Council shall serve only on the Intergovernmental Relations Committee and shall not serve on any board, commission or any other entity of the Navajo Nation.

#### **History**

CD-68-89, December 15, 1989.

CMA-17-89, March 24, 1989.

#### **§ 181. Membership**

A. Committee members representing agencies of the Navajo Nation shall be recommended by the agency caucuses for selection by the Speaker and confirmation by the Navajo Nation Council. The Speaker shall select the at-large committee members. The Speaker shall select and the Navajo Nation Council confirm any of its members to fill vacancies which may occur in the Committee membership.

B. At least one member of each Committee shall be from each of the Agencies of the Navajo Nation.

#### **History**

CAU-48-03, August 29, 2003, Overrode Presidential Veto of CJY-32-03.

CJY-32-03, July 22, 2003. Amended Subsection A to provide for agency caucus recommendation for standing committees.

CD-68-89, December 15, 1989. Amended generally. CMA-17-89, March 24, 1989.

**§ 182. Term of office**

Committee members shall serve a term of office coinciding with their term of office as delegates of the Navajo Nation Council.

**History**

CAU-48-03, August 29, 2003, Overrode Presidential Veto of CJY-32-03.

CJY-32-03, July 22, 2003. Deleted language relative to continuation on standing committees.

CD-68-89, December 15, 1989.

**§ 183. Meetings; quorum**

A. All meetings of the Navajo Nation Council committees or commissions shall be held in Window Rock, Navajo Nation, (Arizona). For a meeting to be deemed to have been held, each of the following acts shall occur: a quorum is present, an agenda is adopted, substantive actions (approval, disapproval or table) are taken, and per diem and roundtrip mileage are paid to committee members or commissioners. Meetings shall not mean work sessions, workshops, orientations, training and business meetings with Navajo or non-Navajo entities, therefore, no meeting per diem payment for work sessions, workshops, etc. shall be paid. See 2 N.N.C. § 106. Meetings held elsewhere within the Navajo Nation shall be by written permission of the Speaker of the Navajo Nation Council, provided that funds are available. No meetings shall be held outside the Navajo Nation unless by written permission of the Speaker of the Navajo Nation Council, provided that funds are available; and further provided that the meeting is with a legislative body of another sovereign.

B. Committee and commission meetings shall be for a minimum of three hours for each meeting day and such meetings shall be for at least two days each month. No compensation, per diem and mileage shall be paid unless these requirements are met. Special meetings may be held only if the following conditions are met:

1. Funds are available within the approved annual budget for additional meetings; and

2. The Speaker of the Navajo Nation Council approves such meetings; and

3. Notice of the meeting is posted at Window Rock Navajo Nation offices, published in a daily newspaper and announced on local radio, at least one day before the meeting.

C. When a Committee is authorized by law to hold hearings as a quasi-judicial body, the restrictions on meeting days per month and minimum hours for meetings shall not apply to said hearings.

D. Until the Navajo Nation Council adopts uniform rules for conduct of

Committee meetings, the Committees may adopt their own rules for conduct of meetings.

E. Quorums for committees, boards and commissions shall be a simple majority of the membership of the committees, boards, and commissions.

F. No committee or commission meeting shall be held while the Navajo Nation Council is in special or regular session except to consider a matter which is already a part of the agenda for the Council session then in progress and for which committee or commission action is a legal condition precedent to action by the Council. Nor shall the Speaker approve travel for any member of the Council which is to take place during a special or regular session of the Council except when such travel is to conduct a meeting with, or to give official testimony to, the government of another sovereign.

#### **History**

CAU-48-03, August 29, 2003, Overrode Presidential Veto of CJY-32-03.

CJY-32-03, July 22, 2003. Amended Subsection A to clarify meeting requirements and differentiate between Standing Committee meetings and other gatherings such as work sessions. Added Subsection F.

CMY-26-90, May 3, 1990. Added "simple majority" provision at Subsection (E).

CD-68-89, December 15, 1989.

#### **Cross References**

Standing committees, rules of procedure, adopted pursuant to Subsection (D), see CJA-06-92, January 22, 1992.

Ethics and Rules Committee, rules of procedure adopted by Navajo Nation Council, see CAP-32-92, April 17, 1991.

#### **§ 184. Chairperson; vice-chairperson; chairperson pro tem**

A. The chairperson and vice-chairperson of committees shall be selected by vote of the committee.

B. At any committee meeting where the duly appointed Committee Chairperson and Vice-Chairperson are absent, the majority of those committee members present may select a pro tem chairperson to conduct the committee meeting; the pro tem chairperson shall retain the power to vote.

C. The chairperson of a committee or in his or her absence the vice-chairperson shall vote only in the event of a tie vote by the regular voting members.

#### **History**

CD-68-89, December 15, 1989.

#### **§ 185. Powers**



A. Subject to existing funding or contract requirements, the committees, Chapters, boards or commissions may reallocate funds appropriated by the Navajo Nation Council to the committees, boards and commissions and to divisions, departments and programs over which the committees have oversight authority, provided that funds are determined available by the Controller; further provided that such reallocation is upon the request of the affected division, department or program and further provided that reallocation of funds is by two-thirds (2/3) vote of the full membership of the committee, board or commission.

B. The committees, boards and commissions shall have the power to subpoena and acquire from any executive department, bureau, agency, board, commission, office, independent establishment or instrumentality, information, suggestions, estimates, and statistics necessary for execution of the purposes and authorities. Each such department, bureau, agency, board, commission, office, establishment or instrumentality is authorized and directed to furnish to the extent permitted by law such information, suggestions, estimates and statistics directly to the committee, board or commission upon request by the chairperson.

C. The committees, boards and commissions may, for the purpose of carrying out purposes and authorities, hold such hearings and shall have the power to subpoena the attendance and testimony of such witnesses and the production of books, records, memoranda, papers and documents as deemed advisable.

D. Any member of a committee, board or commission may administer oaths or affirmations to witnesses appearing before the Committee, board or commission.

E. Committees shall coordinate with one another where areas of authority and responsibility overlap.

F. Subpoenas and orders may be enforced by the courts of the Navajo Nation by means of civil enforcement of committee action. A committee, by the Attorney General, may apply to the District Court of the Window Rock Judicial District for an order to enforce any committee subpoena.

### **History**

CAU-48-03, August 29, 2003, Overrode Presidential Veto of CJY-32-03.

CJY-32-03, July 22, 2003. Deleted Subsection B.

CJY-54-01, July 19, 2001. Subsections (B)(1) and (2) were amended to eliminate the consideration of contracts entered into pursuant to the Navajo Nation Procurement Code, including small purchases, emergency procurements and sole source procurements.

CN-76-92, November 10, 1992. Amended generally Subsections (C) and (D) to specifically grant subpoena power. Subsection (G) was added.

CD-68-89, December 15, 1989.

**Note.** Subsection (C) was slightly reworded for clarity.

**Note.** The Navajo Nation Council expressed its intent that 2 N.N.C. § 185(A) also applies to the reallocation of Chapter funds. By Resolution CAP-17-92, April 13, 1992, "Overriding the Navajo Nation President's Veto of Resolution CMA-14-92," and Resolution CMA-14-92, March 28, 1992, Resolved Clause 8(c), the Navajo Nation Council adopted the following language: "*It is the interpretation of the Navajo Nation Council that the [ ... ] language of 2 N.T.C. § 185(a) [ ... ] means that prior to the reallocation by any Standing Committee of funds which have been allocated for the benefit of any chapter, the affected chapter shall be considered as the affected program. Further, the Navajo Nation Council directs all staff to ensure that a 60-day notice be provided to the affected chapter when a proposed reallocation of said chapter's funds is being considered. Further, the Navajo Nation Council directs the appropriate staff to notify the affected chapters and Council Delegates six months in advance when their project no year funds will revert to the General Fund at the end of that fiscal year.*"

#### **§ 186. Subcommittees**

Each committee may establish subcommittees consisting of committee members selected by the committee. The subcommittee shall exist until its assigned tasks are completed and report and recommendation is made to the committee. The same provisions which apply to committee meetings shall also apply to subcommittee meetings.

#### **History**

CD-68-89, December 15, 1989.

#### **§ 187. Joint Committee meetings**

A. Standing committees of the Navajo Nation Council may convene joint meetings to address issues where their authority and responsibility overlap. The same provisions that apply to committee meetings including, but not limited to, committee uniform rules of order shall also apply to the joint committee meetings.

B. Joint committee meetings shall be held when:

1. Funds are available within the approved annual budget for each standing committee account wanting to participate in the joint meeting;

2. The chairpersons of the standing committees wanting to participate in the joint meeting shall request the joint meeting.

3. Each standing committee participating in the joint meeting shall have a quorum of its members at the joint meeting; and

4. The meeting is approved by the Speaker of the Navajo Nation Council and notice of the joint meeting posted on a Navajo government building and published in a daily newspaper or announced on the local radio 24 hours in advance of the joint meeting.

C. No substantive action shall be taken in joint committee meetings. Each committee shall make substantive decisions individually as provided in § 189 of this Title.

D. The presiding chairperson for the joint committee meeting shall be selected by the committee members present from among the chairpersons of the standing committees participating in the joint meeting; if only one chairperson of the standing committees participating in the joint meeting is available, said chairperson shall automatically preside over the joint meeting. If the chairpersons of any of the standing committees is not present, the vice-chairperson of such standing committee can be selected to preside over the joint committee meeting. If all the chairpersons and vice chairpersons of all the standing committees that are participating in the joint meetings are absent, the committee members of the joint meeting shall select any one of the committee members present to preside over the entire joint meeting.

#### **History**

CAU-48-03, August 29, 2003, Overrode Presidential Veto of CJY-32-03.

CJY-32-03, July 22, 2003. Added New Section 187 and renumbered succeeding Sections.

#### **§ 188. Reports**

All committees, boards and commissions of the Navajo Nation Council shall report quarterly and in writing to the Navajo Nation Council concerning their areas of oversight.

#### **History**

CAU-48-03, August 29, 2003, Overrode Presidential Veto of CJY-32-03.

CJY-32-03, July 22, 2003. Renumbered Section.

CD-68-89, December 15, 1989.

#### **§ 189. Committee actions**

All substantive actions shall be by written resolution duly certified by the presiding officer, setting forth the action taken and signed by the presiding officer. Resolutions and memoranda shall be identified by number and filed with the Central Records Department of the Navajo Nation.

#### **History**

CAU-48-03, August 29, 2003, Overrode Presidential Veto of CJY-32-03.

CJY-32-03, July 22, 2003. Renumbered Section and deleted reference to committee memoranda.

CD-68-89, December 15, 1989.

#### **§ 190. Staff**

Staff from divisions over which the committees have oversight authority shall assist the committees in execution of their authority and shall provide necessary advice and clerical services.

#### **History**

CAU-48-03, August 29, 2003, Overrode Presidential Veto of CJY-32-03.

CJY-32-03, July 22, 2003. Renumbered Section.

CD-68-89, December 15, 1989.

#### **§ 191. Conflict of interest**

Committee members who have personal, family or business interests in matters before the Committee or joint committee meeting shall not participate in the committee or joint committee proceeding or vote on the matter.

#### **History**

CAU-48-03, August 29, 2003, Overrode Presidential Veto of CJY-32-03.

CJY-32-03, July 22, 2003. Renumbered Section and added reference to Joint Committees.

CD-68-89, December 15, 1989.

#### **§ 192. Legislative oversight**

Committee oversight shall be limited to legislation and policy decisions and shall not involve program administration. Where the committee has statutory authority to appoint a director, the committee shall exercise administrative oversight consistent with the appointment authority.

#### **History**

CAU-48-03, August 29, 2003, Overrode Presidential Veto of CJY-32-03.

CJY-32-03, July 22, 2003. Renumbered Section.

#### **§ 193. Agency caucus**

A. Purpose. The Navajo Nation Council Rules of Order recognize the ability of the Council to form itself into caucuses for the discussion of Council business. Caucuses are formed by delegates dividing themselves among the Bureau of Indian Affairs agencies from which each delegate is elected. Each agency caucus then develops policy on issues to be discussed by the Council, and those policies are advanced by each member delegate of the caucus. It is the purpose of this Section to formalize the agency caucus powers and procedures. The purpose of this statute is to improve and make more efficient the legislative process by creating a forum which provides education of, and information to, Council delegates on issues pending before the Council and which allows formulation of positions on these issues in advance of Council

sessions.

B. Agency Caucus defined. An agency caucus shall consist of all those Council delegates elected from Chapters within the BIA recognized Northern, Fort Defiance, Chinle, Western and Eastern Agencies.

C. Powers. An agency caucus shall have authority to make recommendations on any issue before the Council. Caucuses shall act by resolution, but need not seek review of such resolutions pursuant to 2 N.N.C. § 164. In addition, the authority of the caucuses to make recommendations shall not be deemed to extend or add any requirement for review, recommendation or approval of any resolution of the Council. Caucus resolutions shall be only advisory in nature and are not binding upon the Council or the members of the caucus.

D. Procedures. The caucus shall select a caucus leader and Whip, and Recorder from among its members. The caucus leader may call meetings of the caucus upon notice to all members in a form reasonably calculated to provide actual notice of the meeting. There shall be no requirement that notice be given at any particular time in advance of the meeting; notice shall be timed only to provide members with as much advance notice of the meeting as is consistent with the requirements of due process. A caucus may adopt rules of order to govern their meetings. All caucus resolutions shall be in written form.

E. Powers and duties of caucus leader. In addition to powers and duties set forth elsewhere in this statute, the Caucus Leader shall have the following powers and duties:

1. Act as chair of all caucus meetings;
2. Speak of behalf of the caucus at all meetings of the Council and present the positions adopted through caucus resolutions;
3. Ensure that all caucus members have notice of all issues and legislation pending before the Council.

F. Powers and duties of whip. In addition to the powers and duties set forth elsewhere in this statute, the Whip shall have the following powers and duties:

1. Act as deputy to the caucus leader and exercise the powers and duties of the leader in his or her absence;
2. Communicate caucus policy, as adopted by resolution of the caucus, to all caucus members and seek to ensure that the actions of caucus members coincides with this policy;
3. Canvass all caucus members on issues during Council sessions and keep the Caucus Leader informed as to the number of votes which can be counted on for such issues.

G. Powers and duties of Recorder. The recorder shall have the following powers and duties:

1. Keep a record of all meetings of the caucus;
2. Arrange for preparation of all documents, including resolutions, utilized by the caucus;
3. Submit official forms on behalf of all caucus members.

#### **History**

CJA-12-03, January 31, 2003. Subsection (H) eliminated, making the Agency Caucuses permanent entities of the Navajo Nation Government.

CJA-17-00, January 28, 2000. Established the Pilot Project Agency Caucuses, with an initial authorized period of three years duration.

#### **Subchapter 4. [Reserved]**

#### **Subchapter 5. Resolutions and Documents**

##### **§ 221. Resolutions; certification; filing; codification**

A. The Speaker of the Navajo Nation Council or Speaker Pro Tem shall certify the adoption of any resolution of the Navajo Nation Council by signing the same after it is engrossed by the Executive Director of the Office of Legislative Services or his or her designee. Adopted resolutions shall be filed with the Central Records Department of the Navajo Nation and the Legislative Counsel shall immediately arrange for codification thereof.

B. All resolutions that enact new Navajo law or amend existing Navajo law and are adopted by the Navajo Nation Council shall become effective on the day the President of the Navajo Nation signs it into law or the Navajo Nation Council takes action to override the President's veto, unless the Navajo Nation Council specifically authorizes and directs a different effective date.

C. All resolutions that do not enact new Navajo law, amend existing Navajo law or make a policy statement and are adopted by the Navajo Nation Council shall become effective upon the certification by the Speaker or Speaker Pro Tem of the Navajo Nation Council. Resolutions that adopt internal policies and procedures of the Navajo Nation Council shall become effective upon certification by the Speaker or Speaker Pro Tem.

#### **History**

CAU-48-03, August 29, 2003, Overrode Presidential Veto of CJY-32-03.

CJY-32-03, July 22, 2003. Amended Subsection A to add engrossment requirement. Added Subsections B and C.

CD-68-89, December 15, 1989. Filing and Codification requirements added.

CO-51-81, October 22, 1981.

CF-24-57, February 15, 1957.

CA-48-52, § 1, 1952, Res. p. 107, passed August 15, 1952.

CA-34-52, § 2, 1952, Res. p. 106, passed April 25, 1952.

Rules governing Tribal Council, July, 1938, Ch. VI, § 6, 1954 Res. p. 208.

#### **Cross References**

Office of Legislative Counsel, see 2 N.N.C. §§ 164 and 964.

#### **§ 222. Contracts or other papers generally**

All contracts or agreements entered into pursuant to the Navajo Nation Procurement Code, to the extent applicable, or approved by the Navajo Nation Council, or its Committees shall be executed in the following manner:

A. The President or the Vice-President of the Navajo Nation or their designee shall execute contracts or agreements pertaining to the Executive Branch;

B. The Chief Justice of the Navajo Nation or their designee shall execute contracts or agreements pertaining to the Judicial Branch; and

C. The Speaker of the Navajo Nation Council or their designee shall execute contracts or agreements pertaining to the Legislative Branch.

D. The Chapter President of the Navajo Nation Chapter shall execute contracts or agreements pertaining to the Chapter.

#### **History**

CJY-54-01, July 19, 2001. Initial clause amended to acknowledge the application of the Navajo Nation Procurement Code. Subsections (A), (B), (C), and (D) amended to allow signature of contracts by designees of Branch Chiefs.

CD-68-89, December 15, 1989. Amended generally.

CO-61-62, October 17, 1962.

CF-24-57, February 15, 1957, provided as follows: "Notwithstanding any other provision of the resolutions of the Tribal Council, the execution of all contracts or papers of any nature heretofore signed by the Chairperson or Vice-Chairperson alone, purporting to act for the Navajo Nation, is hereby ratified, as of the date of such signatures. The purpose of this Section is merely to ratify the signatures on such contracts or papers and not to validate any contract or paper which may be void or voidable for any reason other than improper signature."

CF-13-53, § 4, 1953 Res. p. 224, January 6, 1953.

CA-48-52, § 1, 1952 Res. p. 107, August 15, 1952.

CA-34-52, § 2, 1952 Res. p. 106, April 25, 1952.

CA-48-52, § 2, 1952 Res. p. 107, August 15, 1952.

1922-1951 Res. p. 552, July 19, 1937, repealed by CF-24-57, § 5.

TAC-RC-9, 1922-1951 Res. p. 384, May 24, 1949.

### **§ 223. Contracts**

Except as otherwise provided, any contract authorized to be executed on behalf of the Navajo Nation shall meet the following conditions:

A. All contracts involving the expenditure of funds shall expressly state that the liability of the Navajo Nation under such contract is contingent upon the availability of appropriations by the Navajo Nation Council to carry out the same.

B. All contracts shall have sufficient funds appropriated and available.

C. Contracts shall not waive the sovereign immunity of the Navajo Nation or its entities unless approved by two-thirds (2/3) vote of the full membership of the Navajo Nation Council. This provision shall not apply to authority to waive immunity properly delegated.

D. All contracts, including those entered into pursuant to the Navajo Nation Procurement Code, shall comply with the Navajo Business Procurement Act, 12 N.N.C. § 1501 *et seq.*, the Navajo Preference in Employment Act, 15 N.N.C. § 601 *et seq.*, Navajo Business Opportunity Act, 5 N.N.C. § 201 *et seq.*, and rules and regulations promulgated thereto.

E. All contracts shall be awarded only after public advertisement and bidding unless otherwise authorized as small purchases, emergency purchases or sole source purchases under the Navajo Nation Procurement Code, or are Intergovernmental Agreements approved by the Navajo Nation Council or its standing committees.

F. All change orders, modifications or amendments of contracts utilizing Navajo Nation funds shall not exceed twenty percent (20%) of the accepted bid. If the twenty percent (20%) cap is exceeded by any change orders, modifications or amendments, such change orders, modification or amendment shall be subject to the provisions of § 223(E) above.

### **History**

CAU-48-03, August 29, 2003, Override Presidential Veto of CJY-32-03.

CJY-32-03, July 22, 2003. Deleted Subsection B.

CJY-54-01, July 19, 2001. Subsections (B), (E), (F), and (G) amended to acknowledge changes made by the passage of the Navajo Nation Procurement Code.

CD-68-89, December 15, 1989.

CO-67-56, 1956 Res. p. 275, passed October 26, 1956, app. by Commissioner,



February 11, 1957.

**§ 224. Filing**

All executed contracts or papers, and any modifications thereof, shall be filed with Central Records Department of the Navajo Nation. Executed contracts shall also be filed with the Office of Contracts and Grants.

**History**

CD-68-89, December 15, 1989.

**Cross References**

Office of Contract and Grants, plan of operation adopted, see ACMY-79-86.

**§ 225. Public access**

Access to contracts or papers shall be provided to the public by the Central Records Department as provided in the Navajo Privacy and Access to Information Act.

**History**

CJY-32-03, amended to reference Navajo Privacy and Access to Information Act.

CAU-48-03, overrode Presidential veto.

CD-68-89, December 15, 1989.

**Subchapter 6. [Reserved]**

**Subchapter 7. Speaker of the Navajo Nation Council**

**§ 281. Office of Speaker of the Navajo Nation Council**

A. There is hereby established the Office of the Speaker of the Navajo Nation Council.

B. The Speaker of the Navajo Nation Council shall be a member of the Navajo Nation Council, in good standing.

C. The Office of the Speaker shall have such support personnel as may be budgeted for.

**History**

CD-68-89, December 15, 1989.

See Rules governing Tribal Council, July 1938, Ch. 111, § 1, 1954, Res. p. 196.

**§ 282. Selection of the Speaker, term of office**

A. The Speaker of the Navajo Nation Council shall serve in such office at the pleasure of the Navajo Nation Council.

B. The term of office of the Speaker shall be two years.

C. The Speaker shall be selected and confirmed by the Navajo Nation Council as the first order of business at the Council session scheduled for the fourth Monday in January of any odd numbered year.

#### **History**

CJA-1-98, January 20, 1998. Changed the day of commencement for the Navajo Nation Council Winter Session from the third Monday to the fourth Monday of January, to accommodate celebration of the Martin Luther King federal holiday.

CD-68-89, December 15, 1989.

#### **Cross References**

Selection and confirmation of Speaker, process and procedure, see CJA-02-99.

#### **§ 283. Residence**

A residence may be furnished at Window Rock, Navajo Nation (Arizona), together with the cost of water, sewer, refuse disposal, electricity and natural gas without charge to the Speaker. If the Speaker declines to reside in such residence, the Navajo Nation shall not be responsible or liable for costs and expenses of living elsewhere.

#### **History**

CD-68-89, December 15, 1989.

#### **§ 284. Salary**

The salary of the Speaker shall be thirty thousand dollars (\$30,000) per annum above the salary as a Navajo Nation Council Delegate.

#### **History**

CD-68-89, December 15, 1989.

#### **§ 285. Powers and duties**

A. The Speaker of the Navajo Nation Council shall exercise all powers and authorities which are delegated to the Office by law or may from time to time be delegated to such Office by the Navajo Nation Council.

B. The Speaker's powers and duties shall include the following:

1. Preside at all Navajo Nation Council and Intergovernmental Relations Committee meetings;

2. Direct and supervise the personnel and programs under the

Legislative Branch as provided by law;

3. Appoint a Speaker Pro Tem to allow the Speaker to participate in debate and sponsor legislation before the Navajo Nation Council and, in the sole discretion of the Speaker, to carry out the administrative duties of the office of Speaker when the Speaker is unavailable and absent due to travel, illness, or for any other reason deemed sufficient by the Speaker;

4. Vote only in the event of a tie vote;

5. Call a special session of the Navajo Nation Council pursuant to 2 N.N.C. § 162;

6. Recommend to the Budget and Finance Committee an annual operating budget or amendments thereof for the Legislative Branch and advise the Navajo Nation Council on the annual budget recommended by the Budget and Finance Committee; and

7. Issue official Certificates of Condolence, Congratulations, Appreciation, Recognition or Achievement and other similar expressions of sentiment signed by the Speaker on behalf of the Navajo Nation Council at the written request of any Council Delegate as provided herein:

a. Certificates of Condolence shall be reserved exclusively for former members of the Navajo Nation Council, Chairmen, Vice Chairmen, Presidents and Vice Presidents of the Navajo Nation.

b. Uniform Procedures for the Issuance of Certificates shall be developed by the Office of the Speaker subject to final approval by resolution of the Intergovernmental Relations Committee of the Navajo Nation Council.

#### **History**

CO-39-06, October 19, 2006. Added Subsection (B) (7).

CAU-48-03, August 29, 2003, Overrode Presidential Veto of CJY-32-03.

CJY-32-03, July 22, 2003. Amended Subsection B(5) to add reference to 2 N.N.C. § 162.

CJY-58-00, July 21, 2000. Subsection (B)(3) amended to allow for the appointment of a Speaker Pro Tem to allow the Speaker to sponsor legislation, and to carry out administrative duties of the Speaker when the Speaker is unavailable.

CD-68-89, December 15, 1989.

#### **Cross References**

Special sessions, authority to call on recommendation of Ethics and Rules Committee, see 2 N.N.C. § 162(B).

**§ 286. Removal; vacancy**

A. The Speaker may be removed by two-thirds (2/3) vote of the full membership of the Navajo Nation Council.

B. If a vacancy should occur in the Office of the Speaker of the Navajo Nation Council, the Navajo Nation Council shall select and confirm from among its members a successor to serve the remainder of the term.

**History**

CD-68-89, December 15, 1989.

**§ 287. Speaker Pro Tem**

A. When a quorum of the Navajo Nation Council is present at any duly called regular or special meeting, the members present, in absence of the Speaker, may select from among the Chairpersons of the standing committees to serve as the Speaker Pro Tem until the Speaker arrives.

B. The Speaker, in his or her sole discretion, may appoint a Speaker Pro Tem to carry out the administrative duties of the office of Speaker whenever the Speaker is both absent and unavailable due to travel, illness, or any other reason deemed sufficient grounds by the Speaker. The appointment shall be made in writing and shall expire at a time designated by the Speaker or whenever withdrawn in a separate writing by the Speaker, and shall, in any event, automatically expire in five working days after the date of the appointment unless renewed in writing by the Speaker. Only current members of the Council may be appointed as Speaker Pro Tem pursuant to this provision and shall serve without additional salary compensation.

C. If the Speaker is unable to perform his or her duties for any reason and is unable to appoint a Speaker Pro Tem pursuant to § 287(B), the Chairperson of the Government Services Committee shall serve as the Speaker Pro Tem until the Speaker's inability to perform his or her duties is removed.

D. A Speaker Pro Tem appointed pursuant to §§ 287(B) or (C) shall, in addition to his or her salary as a delegate pursuant to 2 N.N.C. § 106(A), receive mileage compensation in accordance with 2 N.N.C. § 106(A) and per diem for each day of service as Speaker Pro Tem in an amount equivalent to the daily rate of the salary established in 2 N.N.C. § 284.

**History**

CJY-58-00, July 21, 2000. Subsections (B), (C), and (D) added to allow for the appointment of a Speaker Pro Tem to carry out administrative duties of the Speaker when the Speaker is unavailable.

CD-68-89, December 15, 1989.

**Subchapter 8. [Reserved]**

**Subchapter 9. Standing Committees**

## **Article 1. Government Services Committee**

### **§ 341. Establishment; purposes**

A. The Government Services Committee is hereby established and continued as a standing committee of the Navajo Nation Council.

B. It is the purpose of the Committee to monitor and coordinate the activities of all divisions and departments of the Executive Branch of the Navajo Nation.

#### **History**

CD-68-89, December 15, 1989. By CD-68-89, the "Government Services Committee" was established and the "Advisory Committee" abolished.

CJA-1-81, January 28, 1981.

CF-17-67, February 28, 1967.

CMA-51-66, March 9, 1966.

CS-51-64, September 4, 1964.

### **§ 342. Membership**

The Committee shall consist of eight members of the Navajo Nation Council.

#### **History**

CD-68-89, December 15, 1989.

### **§ 343. Powers**

A. General. The Committee shall have powers necessary and proper to carry out the purposes set forth herein.

B. Enumerated Powers. The Committee is hereby authorized and directed:

1. To recommend to the Navajo Nation Council legislation for the creation of colleges, or other entities of the Navajo Nation and to recommend the amendment or rescission of such legislation.

2. To create any division or department of the Executive Branch of the Navajo Nation government by adoption of its plan of operation and to amend or rescind that Plan or the existing plan of operation for any division or department.

3. To give final confirmation of appointments to boards, commissions, and colleges.

4. To oversee the conduct and operations of entities of the Navajo Nation not otherwise under the oversight authority of other standing committees, except that such oversight shall not interfere with the prerogative or business decisions of management and governing boards.

5. To recommend legislation to Navajo Nation Council on matters within the Committee's jurisdiction.

#### **History**

CD-68-89, December 15, 1989.

#### **Cross References**

Fact-finding hearings, rules of Government Services Committee, see, also, GSCMY-33-90.

#### **§ 344. Meetings**

Meetings shall be held on the second and fourth Tuesday of each month.

#### **History**

CMY-26-90, May 8, 1990. Subsection (B) on quorum requirements deleted. Quorum requirements for all Committees found at 2 N.N.C. § 183.

CD-68-89, December 15, 1989.

### **Article 2. Budget and Finance Committee**

#### **§ 371. Establishment**

The Budget and Finance Committee is hereby established and continued as a standing committee of the Navajo Nation Council.

#### **History**

CD-68-89, December 15, 1989. Amended generally.

CMA-17-89, March 24, 1989.

CAP-17-84, April 19, 1984.

CJA-1-71, January 12, 1971.

CN-91-69, November 13, 1969.

CMA-18-67, March 2, 1967.

CJY-90-66, July 20, 1966.

CMA-28-65, March 18, 1965.

CF-11-6 1, February 13, 1961.

**§ 372. Purposes**

The purposes of the Committee are:

A. To coordinate, oversee and regulate the fiscal, financial, investment, contracting and audit policies of the Navajo Nation.

B. To report to the Navajo Nation Council on the fiscal and financial state of the Navajo Nation.

C. To recommend to the Navajo Nation Council the adoption of legislation designed to strengthen the fiscal and financial position of the Navajo Nation and to promote the efficient use of the fiscal and financial resources of the Navajo Nation.

D. To protect the interests of the Navajo People through the prudent management of the financial reserves of the Navajo Nation and the efficient use of funds available for expenditure by the Navajo Nation.

E. To oversee and provide direction for lending programs within the Committee's authority.

**History**

CD-68-89, December 15, 1989. Amended generally.

CMA-17-89, March 24, 1989.

CAP-17-84, April 19, 1984.

CJA-I-71, January 12, 1971.

CN-91-69, November 13, 1969.

CMA-18-67, March 2, 1967.

CJY-90-66, July 20, 1966.

CMA-28-65, March 18, 1965.

CF-11-61, February 13, 1961.

**§ 373. Membership; advisors**

A. The Committee shall consist of eight members of the Navajo Nation Council.

B. The Department of Justice, Controller, Auditor General, Legislative Counsel, Director of Legislative Services and Director of the Division of Finance shall serve as official advisors to the Committee and shall provide appropriate support, advice and counsel on all matters.

## **History**

CD-68-89, December 15, 1989. Amended generally.

CMA-17-89, March 24, 1989.

CAP-17-84, April 19, 1984.

CJA-1-71, January 12, 1971.

CN-91-69, November 13, 1969.

CMA-18-67, March 2, 1967.

CJY-90-66, July 20, 1966.

CMA-28-65, March 18, 1965.

CF-11-6 1, February 13, 1961.

**Note.** The reference to "Division of Administration and Finance" at Subsection (B) was changed to "Division of Finance".

### **§ 374. Powers**

A. The Committee shall have all powers necessary and proper to carry out the purposes set forth above.

B. The Committee shall have the following powers:

1. To review and recommend to the Navajo Nation Council the budgeting, appropriation, investment and management of all funds.

2. To the extent permitted by federal or Navajo Nation laws and regulations, the Committee shall appropriate, allocate, cancel, reappropriate and review the use of Navajo Nation funds received including but not limited to all grants, contracts, gifts and other funds from all sources.

3. With prior approval of the President, Speaker and/or Chief Justice to recommend to the Navajo Nation Council amendment of the approved annual budgets by reallocating funds between branches.

4. To coordinate and review all fiscal, financial and investment activities of the Navajo Nation and its enterprises, as well as other agencies, federal, state, regional and private, expending or seeking to expend funds within the Navajo Nation or for the benefit of the Navajo People.

5. To require the presentation and submission of financial reports by any enterprise, authority, or entity chartered or approved by the Navajo Nation Council or its committees.

6. To return unexpended funds to the Reserve Fund or the



appropriate funding source.

7. To promulgate policies and regulations concerning wages, expenditure reimbursement, and fringe benefits for Navajo Nation officials and employees.

8. To require reports from and to monitor the financial performance of all offices, divisions, departments, enterprises, authorities, committees, boards, commissions, or entities having oversight or control over fiscal matters or financial obligations to the Navajo Nation.

9. To require an annual audit of the accounts of the Navajo Nation by certified public accountants and to present such audit to the Navajo Nation Council.

10. To review the annual budgets of the Bureau of Indian Affairs, the Indian Health Services and other departments and agencies of the United States government and to recommend the approval or disapproval of such budgets.

11. To promulgate rules and regulations for lending money to members of the Navajo Nation.

12. To provide legislative oversight over lending programs previously delegated to the Central Loan Committee.

13. To coordinate loan programs under the committee's oversight with other governments.

14. Review and approve agreements to make funds available for loans to Navajo individuals, except economic development business loans.

15. To approve lease purchase agreements concerning all tribal programs, departments and divisions within all branches of the Navajo Nation government upon recommendations of the Division of Finance.

16. Oversight of the functions of the Division of Finance.

### **History**

CO-81-90, October 30, 1990. Subsections (B) (15) and (16) added.

CMA-17-89, March 24, 1989. Amended generally.

CAP-17-84, April 19, 1984.

CJA-1-71, January 12, 1971.

CN-91-69, November 13, 1969.

CMA-18-67, March 2, 1967.

CJY-90-66, July 20, 1966.

CMA-28-65, March 18, 1965.

CF-11-61, February 13, 1961.

**Note.** Central Loans Committee ACN-229-87, November 13, 1987, was discontinued by the amendments adopted by CD-68-89.

### **§ 375. Meetings**

All regular meetings of the Committee shall be held on the first and third Tuesday of each month.

### **History**

CMY-26-90, May 8, 1990. Subsection (B) on quorum requirements deleted. Quorum requirements for all Committees found at 2 N.N.C. § 183.

CMA-17-89, March 24, 1989. Amended generally.

CAP-17-84, April 19, 1984.

CJA-1-71, January 12, 1971.

CN-91-69, November 13, 1969.

CMA-18-67, March 2, 1967.

CJY-90-66, July 20, 1966.

CMA-28-65, March 18, 1965.

CF-11-61, February 13, 1961.

### **Article 3. [Reserved]**

### **Article 4. Transportation and Community Development Committee**

#### **§ 420. Establishment**

The Transportation and Community Development Committee is hereby established and continued as a standing committee of the Navajo Nation Council.

#### **History**

CMY-26-90, May 3, 1990. "Transportation" was added to the title of the Committee.

CD-68-89, December 15, 1989.

#### **§ 421. Purposes**

The purposes of the Committee are:

A. To develop overall policies and legislation appropriate to the housing needs of the Navajo Nation.

B. To promote local community land use plans which support community infrastructural development.

C. To promote development of Chapter government which enhances local self government.

D. To promote, review, coordinate and approve projects to be financed by funds designated for capital improvement. Such projects shall include but not be limited to Chapter houses, multipurpose buildings, preschools, senior citizen centers, powerline extensions, housewiring, airports, waterline extensions and other water systems, airport/road infrastructures and other Navajo Nation facilities.

E. To be responsible for planning and coordinating all roads and transportation activities of the Navajo Nation.

#### **History**

CD-68-89, December 15, 1989.

#### **§ 422. Membership; advisors**

A. The Committee shall consist of eight members of the Navajo Nation Council.

B. The Executive Director of the Division of Community Development, the General Manager of the Navajo Tribal Utility Authority, the Area Director of Indian Health Service and other personnel from appropriate agencies shall serve as technical advisors to the Committee.

#### **History**

CD-68-89, December 15, 1989.

#### **§ 423. Powers**

A. General. The Committee shall have all powers necessary and proper to carry out the purposes set forth above.

B. Housing Development. The Committee shall:

1. Review and approve contracts and agreements between the Navajo Nation and any other entity for the development, construction and renovation of housing subject to applicable laws.

2. Propose policies and laws relating to housing development, including but not limited to building, construction, and utility codes.

3. Oversee and periodically review the overall function of the Division of Community Development to ensure that the purposes and objectives are properly and timely achieved and to recommend any

amendments to the Division of Community Development Plan of Operation.

4. Represent the Navajo Nation at local, state and federal levels for housing development.

5. Coordinate with the Budget and Finance Committee and lending institutions for housing loans to enrolled members of the Navajo Nation residing within the Navajo Nation.

C. Community Development. The Committee shall:

1. Approve legislation to develop and improve local governmental units.

2. Review and approve comprehensive community land use plans and zoning ordinances and amendments or modifications thereof, including land withdrawals necessary for the implementation of such land use plans.

3. Review and approve local ordinances, not otherwise delegated to Chapters by the Navajo Nation Council, enacted by local government entities and Chapters.

4. Review and approve all surface easements and rights-of-way and other clearances related to local community development including but not limited to powerline, waterline and sewerline extensions.

D. Capital Improvement Projects. The Committee shall:

1. Review and recommend to the Navajo Nation Council through the budget process an annual budget for capital improvement projects utilizing all sources of funds.

2. Review and recommend to the Navajo Nation Council through the appropriate process supplemental appropriations to the capital improvement projects annual budget to fund necessary additional capital improvement projects.

3. To review, prioritize and approve capital improvement projects funded by all funding sources.

4. To lobby for state, federal, and other sources of funds.

5. To review and recommend legislation to accomplish Committee purposes.

6. To periodically review the progress of capital improvement projects and take necessary action(s) to ensure timely and efficient completion of projects.

7. To require periodic reports from the Controller of the Navajo Nation concerning the fund status of capital improvement projects and require such other reports from appropriate officials as may be necessary to execute the Committee's purposes.

8. To review the annual capital improvement projects budgets of the Bureau of Indian Affairs, Indian Health Services and other departments or agencies of the United States, and recommend the approval or disapproval of such budgets.

E. Transportation and Roads. The Committee shall:

1. Represent the Navajo Nation in all roads and transportation matters.

2. Develop and approve a priority list for roads and transportation projects.

F. Other Powers. The Committee shall:

1. Promulgate rules and regulations necessary to accomplish the Committee's purposes.

2. Review and approve new programs and improve existing programs to better serve the public and communities.

3. Review and approve alternative and appropriate technological projects related to housing, community development and capital improvement projects.

#### **History**

CMY-26-90, May 8, 1990. At Subsection (E)(2), the word "maintain" was changed to "approve."

CD-68-89, December 15, 1989.

#### **§ 424. Meetings**

Committee meetings shall be held on the first and third Tuesday of every month.

#### **History**

CMY-26-90, May 8, 1990. Subsection (B) on quorum requirements deleted. Quorum requirements for all Committees found at 2 N.N.C. § 183.

CD-68-89, December 15, 1989.

### **Article 5. Health and Social Services Committee**

#### **§ 451. Establishment**

The Health and Social Services Committee is hereby established and continued as a standing Committee of the Navajo Nation Council.

#### **History**

CD-68-89, December 15, 1989. "Health and Human Services Committee" changed to

"Health and Social Services Committee."

CAU-36-73, August 22, 1973.

CJA-2-71, January 12, 1971.

CAP-11-63, April 30, 1963.

**§ 452. Purposes**

The Committee shall address health and social service problems affecting Navajo People and develop, monitor, and coordinate policies and proposals, laws, regulations and delivery of services to abate these problems consistent with and acceptable to the traditional practices and customs of the Navajo People.

**History**

CD-68-89, December 15, 1989. Amended Generally.

ACMA-35-84, March 14, 1984.

**§ 453. Membership**

The Committee shall consist of eight members of the Navajo Nation Council.

**History**

CD-68-89, December 15, 1989. Committee membership increased from "6" to "8". Subsections (B) and (C) deleted.

ACMA-35-84, March 14, 1984.

CAU-36-73, August 22, 1973.

CJA-2-71, January 12, 1971.

**§ 454. Powers**

A. The Committee shall have all authority necessary and proper to carry out the purposes set forth.

B. The Committee shall have the power:

1. To represent the Navajo Nation in matters relating to health, social services, and environmental health, including lobbying for, promotion and education on Navajo Nation policies.

2. To review and approve agreements and contracts negotiated with federal, state, regional, local, private and Navajo Nation health and social service authorities, subject to applicable laws of the Navajo Nation.

3. To coordinate all health and social services related activities of the Navajo Nation and its enterprises, relating to the delivery of health and social services and health and social services planning and prevention.

4. To coordinate all environmental health-related activities of the Navajo Nation and its enterprises.

5. To promulgate health and social services policies, objectives, priorities and regulations for the Navajo Nation and to monitor the implementation of those plans and regulations.

6. To recommend legislation relating to health, environmental health and social services.

7. To prepare and recommend a Committee budget each fiscal year.

8. To serve as the oversight committee for the Division of Health and the Division of Social Services except as delegated otherwise by Navajo Nation Council and this oversight responsibility shall include other programs designated by the Navajo Nation Council.

#### **History**

CD-68-89, December 15, 1989. Amended generally.

ACMA-35-84, March 14, 1984.

#### **§ 455. Meetings**

Regular meetings shall be held the second and fourth Tuesday of each month.

#### **History**

CMY-26-90, May 8, 1990. Subsection (B) on quorum requirements deleted. Quorum requirements for all Committees found at 2 N.N.C. § 183.

CD-68-89, December 15, 1989. Meeting dates changed and quorum requirements amended.

ACMA-35-84, March 14, 1984.

### **Article 6. Education Committee**

#### **§ 481. Establishment**

The Education Committee is hereby established and continued as a standing committee of the Navajo Nation Council.

#### **History**

CD-68-89, December 15, 1989.

ACMA-35-84, March 14, 1984.

CJ-9-57, January 31, 1957.

CJA-13-38, Tribal Council Res. 1922-1951, p. I 11, January 18, 1938.

#### **§ 482. Purposes**

The Committee's general purpose is to oversee the educational development of the Navajo Nation and to develop policies for a scholastically excellent and culturally relevant education.

#### **History**

CD-68-89, December 15, 1989. Subsection (B) deleted, and remaining paragraph amended generally.

ACMA-35-84, March 14, 1984.

#### **§ 483. Membership**

The Committee shall consist of eight members of the Navajo Nation Council.

#### **History**

CD-68-89, December 15, 1989. Committee membership increased from "6" to "8". Also, Subsections (B), (C) and (D) were deleted.

ACMA-35-84, March 14, 1984.

#### **§ 484. Powers**

A. The Committee shall have such powers as are necessary and proper for the accomplishment of the purposes set forth above.

B. The powers of the Committee are:

1. Promulgate regulations, policies and procedures to implement Navajo Nation education laws.

2. Review and make recommendations on all education-related legislation coming before the Navajo Nation Council.

3. Review, sanction and authorize applications, reapplications and amendments for Indian Self-Determination Act contracts and grants under the Tribally Controlled Schools Act for the operation of education programs, subject to final approval by the Intergovernmental Relations Committee. Approval or denial of reauthorizations of contract and grant applications by the Education Committee shall constitute approval or denial by the Tribal governing body, without further consideration by the Intergovernmental Relations Committee of the Navajo Nation Council.



4. Serve as the oversight committee of the Navajo Department of Diné Education, the Navajo Nation Board of Education, and colleges within the Navajo Nation.

5. Assist, support and coordinate with local communities, parent organizations and school boards and school board organizations.

6. 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. The Committee shall, where appropriate, seek concurrence of the Intergovernmental Relations Committee of the Navajo Nation Council or the Navajo Nation Council in framing official responses from the Navajo Nation to proposals for major changes in educational programs, such as proposals regarding major school closures or transfers of jurisdiction.

7. Review and approve any programs offered on the Navajo Nation by off-Navajo Nation post-secondary institutions or any "nonresident" or home study post-secondary programs for which student recruitment activities are conducted on the Navajo Nation.

#### **History**

CJY-37-05, July 19, 2005.

CD-68-89, December 15, 1989. Amended generally.

ACMA-35-84, March 14, 1984.

#### **Cross References**

Navajo Division of Education, establishment, see CJN-60-71, June 8, 1971.

Validity, construction, and application of Indian Self-Determination and Education Assistance Act, 190 A.L.R. Fed. 249 (2003).

#### **United States Code**

Indian self-determination and education assistance, see 25 U.S.C. § 450 et seq.

#### **§ 485. Meetings**

The Committee shall hold its regular meetings every first and third Wednesday of each month.

#### **History**

CAP-10-09, April 21, 2009. Changed regular Education Committee meetings from the second and fourth Friday of each month to the first and third Wednesday of each month.

CMY-26-90, May 8, 1990. Subsection (B) on quorum requirements deleted. Quorum requirements for all Committees found at 2 N.N.C. § 183.

CD-68-89, December 15, 1989. Meeting dates specified and quorum requirements set.

**Article 7. [Reserved]**

**Article 8. [Reserved]**

**Article 9. Judiciary Committee**

**§ 571. Establishment**

The Judiciary Committee is established and continued as a standing committee of the Navajo Nation Council with oversight responsibility for the Judicial Branch of the Navajo Nation.

**History**

CJA-04-01, January 24, 2001. Amended generally.

CD-68-89, December 15, 1989. Amended generally.

ACMA-35-84, March 14, 1984. Amended generally.

CAU-54-59, August 14, 1959.

**§ 572. Purposes**

The purposes of the Judiciary Committee are:

A. To improve the administration of justice on the Navajo Nation by ensuring an independent judiciary free from political influence in its deliberative process that remains accountable and responsible to the Navajo Nation for its administrative and operational activity.

B. To work towards cooperation between the courts of the Navajo Nation and the courts of the various states, the federal court system, and the administrative-judicial system of the Department of the Interior and other federal or state agencies.

C. To promote the interests of the Navajo People through support and/or sponsorship of projects and legislation to improve the quality of the justice system within the Navajo Nation.

D. To support and promote increased funding, planning and coordination to develop Navajo Nation infrastructure relating to or having an impact on the Judicial Branch, including but not limited to court facilities and detention facilities.

**History**

CJA-04-01, January 24, 2001. Amended generally.

CD-68-89, December 15, 1989.

ACMA-35-84, March 14, 1984.

## **Annotations**

### **1. Construction and application**

"The Chairman [President] has no independent authority to appoint a person as judge who has not been screened and recommended by the Judiciary Committee. As a collateral matter, the Advisory Committee has absolutely no authority to either recommend, not recommend, confirm, or on its own appoint a person as judge of the Navajo Nation. All recommendations for appointment of judges are initiated by the Judiciary Committee." *In re: Certified Questions I*, 6 Nav. R. 97, 99 (Nav. Sup. Ct. 1989).

"The initial screening of applicants, which includes review of qualifications pursuant to 7 N.T.C. § 354 and interviews, is conducted by the Judiciary Committee of the Navajo Tribal Council. The power of initial screening is given to the Judiciary Committee by 7 N.T.C. §§ 355, 354(a) and 2 N.T.C. § 572(1)." *In re: Certified Questions I*, 6 Nav. R. 97, 99 (Nav. Sup. Ct. 1989).

### **§ 573. Membership**

The Committee shall consist of eight members of the Navajo Nation Council.

## **History**

CD-68-89, December 15, 1989. Increased membership of Committee from 6 to 8.

ACMA-35-84, March 14, 1984. Amended generally.

CJA-4-79, January 26, 1979. Provided for a Chairperson and Vice-Chairperson of the Committee and provided that each agency have at least one member on the Committee.

CJA-3-71, January 12, 1971. Increased membership of Committee from 3 to 5.

### **§ 574. Powers**

In addition to the powers enumerated at 2 N.N.C. § 185, the Committee shall have the following powers including those powers necessary and proper to carry out the purposes set forth in § 572 above:

A. To serve as the oversight committee for all operations of the Judicial Branch.

B. To determine, with the approval of the Navajo Nation Council, qualifications to be required of judges and justices of the Navajo Nation.

C. To provide a process for accepting applications for judicial positions and for determining the most qualified candidates.

1. Upon screening all eligible applicants, the Committee shall recommend to the President of the Navajo Nation a panel of qualified candidates for appointment as probationary Chief Justice, Associate Justices of the Supreme Court and probationary judges of the lower courts, and all other judicial positions which the Navajo Nation Council may create.

2. The President shall appoint probationary justices and judges only from among those named in the panel submitted by the Committee. Probationary justices or judges shall be confirmed by the Navajo Nation Council.

D. To review and evaluate the performance of probationary and permanent justices and judges.

E. To recommend to the President of the Navajo Nation the removal of probationary justices and judges prior to their permanent appointment.

F. To recommend to the President the permanent appointment of probationary justices and judges.

1. The President shall not appoint to a permanent position any justice or judge not recommended by the Judiciary Committee.

2. The appointment of permanent justices and judges shall be confirmed by the Navajo Nation Council.

G. To present directly to the Navajo Nation Council the issue of permanent appointment of any probationary justice or judge whom the Committee and the Chief Justice have recommended for permanent appointment and which recommendation the President of the Navajo Nation has failed to convey to the Navajo Nation Council within 60 days of receiving the recommendation.

H. To recommend to the Navajo Nation Council the removal of permanent justices or judges.

I. To initiate, recommend, support, and sponsor legislation to improve the Navajo judicial system.

J. To review and/or propose legislation and make recommendations regarding any proposed or current laws, procedures, and regulations affecting or creating any impact on the Judicial Branch.

K. To review and approve plans of operation for all Judicial Branch divisions, departments and programs and to amend or rescind such plans of operation.

L. To review and approve policies, procedures and regulations necessary for the administration and operation of the Judicial Branch including, but not limited to, travel policies, retirement policies and personnel policies for Judicial Branch employees, justices and judges.

M. To review and approve contracts, subcontracts, and agreements negotiated with federal, state, international, tribal, regional, local and private entities, subject to Intergovernmental Relations Committee approval when required by law. All Judicial Branch contracts must be in compliance with the requirements of 2 N.N.C. §§ 222(B) and 223.

### **History**

CJA-04-01, January 24, 2001. Amended generally.

CD-68-89, December 15, 1989.

### **Cross References**

Reallocation of funds, see also, 2 N.N.C. § 185.

### **Annotations**

#### **1. Screening, generally**

"The initial screening of applicants, which includes review of qualifications pursuant to 7 N.T.C. § 354 and interviews, is conducted by the Judiciary Committee of the Navajo Tribal Council. The power of initial screening is given to the Judiciary Committee by 7 N.T.C. §§ 355, 354(a) and 2 N.T.C. § 572(1)." *In re: Certified Questions I*, 6 Nav. R. 97, 99 (Nav. Sup. Ct. 1989).

#### **2. Powers of committee**

"Different events occur if the Judiciary Committee recommends a probationary judge to a permanent position. [...] The legislative scheme does not allow the Chairman's denial of permanent appointment to a probationary judge to be final. [...] The Navajo Tribal Council will make a final decision as to whether to grant permanent status to this type of probationary judge." *In re: Certified Questions II*, 6 Nav. R. 105, 108-110 (Nav. Sup. Ct. 1989).

"If the Judiciary Committee's recommendation is that the probationary judge be denied permanent appointment, the Chairman must deny the appointment. [...] The Chairman is required to follow the Judiciary Committee's recommendation of denial." *In re: Certified Questions II*, 6 Nav. R. 105, 108 (Nav. Sup. Ct. 1989).

"The Chairman [President] has no independent authority to appoint a person as judge who has not been screened and recommended by the Judiciary Committee. As a collateral matter, the Advisory Committee has absolutely no authority to either recommend, not recommend, confirm, or on its own appoint a person as judge of the Navajo Nation. All recommendations for appointment of judges are initiated by the Judiciary Committee." *In re: Certified Questions I*, 6 Nav. R. 97, 99 (Nav. Sup. Ct. 1989).

#### **3. Termination of judge**

"The above cited statute providing for removal of probationary judge is not discretionary because the statute gives the public an overwhelming and

compelling interest in ensuring that only qualified and ethics-conscious individuals become judges. The Navajo public has an interest in a strong and independent judiciary. Navajo sovereignty is strengthened by a strong and independent judiciary. For these reasons, a probationary judge who has been determined to be unfit for office by the Judiciary Committee must be removed by the Chairman. The public is protected by the removal of the judge." *In re: Certified Questions II*, 6 Nav. R. 105, 107 (Nav. Sup. Ct. 1989).

"If a probationary judge is to be removed prior to the expiration of his probationary period, the Judiciary Committee must make a recommendation of removal to the Chairman. Pursuant to such recommendation, the Chairman *must* remove the probationary judge. No further removal proceeding is required. The removal is final." *In re: Certified Questions II*, 6 Nav. R. 105, 106 (Nav. Sup. Ct. 1989).

"The Chairman of the Navajo Tribal Council is not empowered to act alone in either removing a probationary judge or denying a permanent appointment to a probationary judge. The Navajo Tribal Code laws on the Judicial Branch provide for two ways by which a probationary judge can be terminated. The first is by removal and the second is by denial of permanent appointment. In either case the Chairman cannot act until after the Judiciary Committee of the Navajo Tribal Council has formally acted by recommendation." *In re: Certified Questions II*, 6 Nav. R. 105, 106 (Nav. Sup. Ct. 1989).

#### **4. Probationary evaluations**

"The Committee makes an independent determination of the training requirement and whether the probationary judge has performed satisfactorily over the two year probationary term." *In re: Certified Questions II*, 6 Nav. R. 105, 108 (Nav. Sup. Ct. 1989).

#### **§ 575. Meetings**

Meetings shall be held on the first and third Thursday of each and every month.

#### **History**

CMY-26-90, May 3, 1990. Subsection (B) on quorum requirements deleted. Quorum requirements for all Committees found at 2 N.N.C. § 183.

CD-68-89, December 15, 1989. Meeting dates specified and quorum requirements added.

ACMA-35-84, March 14, 1984.

### **Article 10. Human Services Committee**

#### **§ 601. Establishment**

The Human Services Committee is hereby established and continued as a standing committee of the Navajo Nation Council.

### **History**

CD-68-89, December 15, 1989. "Labor and Manpower Committee" changed to "Human Services Committee".

CJA-4-79, January 26, 1979. Increased membership from five to seven and provided that each agency have a member on the Committee.

CN-73-76, November 11, 1976. Rescinded §§ 601-603.

CJA-4-71, January 12, 1971. Established Labor and Manpower Committee.

### **§ 602. Purposes**

The purposes of the Committee are as follows:

A. To coordinate the Navajo Nation efforts with respect to the implementation and enforcement of Navajo Nation labor and veterans laws and policies.

B. To coordinate all employment and training and veterans services programs.

### **History**

CD-68-89, December 15, 1989. Implementation of veterans laws and coordination of veterans services included among purposes of the Committee.

ACMA-35-84, March 14, 1984.

### **§ 603. Membership**

The Committee shall consist of eight members of the Navajo Nation Council.

### **History**

CD-68-89, December 15, 1989. Increased membership from "6" to "8", and Subsections (B), (C), and (D) were deleted.

ACMA-35-84, March 14, 1984.

### **§ 604. Powers**

A. The Committee shall have all powers necessary and proper to carry out the purposes set forth above.

B. The Committee shall have the following powers:

1. To promulgate regulations for the enforcement and implementation of the labor laws and policies of the Navajo Nation and laws relating to veterans services.

2. To represent the Navajo Nation in matters relating to labor,

employment and training and veterans services.

3. To recommend legislation regarding employment, training, and veterans services.

4. In conjunction with the Education Committee to oversee and to propose the establishment of any employment training center or institution under the jurisdiction of the Navajo Nation and to review, recommend or propose the adoption, amendment or rescission of its Plan of Operation.

5. To serve as the oversight authority for the Division of Human Resources.

#### **History**

CD-68-89, December 15, 1989. Amended generally.

ACMA-35-84, March 14, 1984.

#### **§ 605. Meetings**

Meetings shall be held on the second and fourth Monday of each month.

#### **History**

CJY-69-95, July 21, 1995. Changed meeting days to the second and fourth Monday.

CMY-26-90, May 3, 1990. Subsection (B) on quorum requirements deleted. Quorum requirements for all Committees found at 2 N.N.C. § 183.

CD-68-89, December 15, 1989. Meeting dates and quorum requirements specified.

ACMA-35-84, March 14, 1984.

#### **Article 11. [Reserved]**

#### **Article 12. Public Safety Committee**

#### **§ 661. Establishment**

The Public Safety Committee is hereby established and continued as a standing committee of the Navajo Nation Council.

#### **History**

CD-68-89, December 15, 1989.

ACMA-35-84, March 14, 1984. "Police Committee" changed to "Public Safety Committee".

CJA-4-79, January 26, 1979.



CMY-29-61, May 25, 1961. Changed name of Committee from "Law and Order Committee" to "Police Committee"; transferred certain functions.

CJ-9-57, January 1, 1957. Navajo Nation assumed Law Enforcement responsibilities.

CJ-1-55, June 22, 1955.

#### **§ 662. Purposes**

The purposes of the Committee are:

A. To coordinate legislative activities relating to administration, police services, highway safety, fire and rescue services, detention, and criminal investigations within the Navajo Nation and such other activities as may hereafter be specifically delegated to the Division of Public Safety.

B. To coordinate federal, state and Navajo law enforcement activities.

C. To promote the efficient operation of public safety on the Navajo Nation.

#### **History**

CJY-51-90, July 20, 1990. Reference to "Emergency Services" deleted.

CD-68-89, December 15, 1989. Reference to "Emergency Services" added.

ACMA-35-84, March 14, 1984.

#### **§ 663. Membership**

The Committee shall consist of seven members of the Navajo Nation Council.

#### **History**

CD-68-89, December 15, 1989. Membership increased from "6" to "7" and Subsections (B) and (C) deleted.

ACMA-35-84, March 14, 1984.

CJ-9-57, January 31, 1957.

#### **§ 664. Powers**

A. The Committee shall have all powers necessary and proper to carry out the purposes set forth above.

B. The Committee shall have the following powers:

1. To represent the Navajo Nation in matters relating to law enforcement.

2. To coordinate all law enforcement activities of the Navajo Nation and its enterprises, as well as those activities of federal, state and regional agencies.

3. To recommend to the Navajo Nation Council the enactment, repeal or amendment of law enforcement, traffic and safety legislation.

4. To promulgate regulations and rules as may be necessary to carry out the purposes stated herein and the laws of the Navajo Nation concerning law enforcement.

5. To serve as legislative oversight authority for the Division of Public Safety.

#### **History**

CJY-51-90, July 20, 1990. Amended generally.

CD-68-89, December 15, 1989. Amended generally.

ACMA-35-84, March 14, 1984.

#### **§ 665. Meetings**

Meetings shall be held on the second and fourth Monday of each month.

#### **History**

CMY-26-90, May 8, 1990. Subsection (B) on quorum requirements deleted. Quorum requirements for all Committees found at 2 N.N.C. § 183.

CD-68-89, December 15, 1989. Meeting dates and quorum requirements specified, and Subsection (C) was deleted.

### **Article 13. Resources Committee**

#### **§ 691. Establishment**

The Resources Committee is hereby established and continued as a standing committee of the Navajo Nation Council.

#### **History**

CD-68-89, December 15, 1989. Amended generally.

CJA-4-79, January 26, 1979. Reduced membership from "8" to "7".

CAU-35-73, August 21, 1973. Reduced membership from "11" to "8".

CJA-5-71, January 12, 1971. Amended generally.

Tribal Council Res. 1922-1951, p. 539, July 15, 1950.

### **Cross References**

Agriculture and livestock, see generally, 3 N.N.C. § 1 *et seq.*

### **§ 692. Definition of terms**

As used within this article, the following definition of terms shall apply:

A. "Resources". Any and all Navajo owned, controlled or claimed, natural, renewable, nonrenewable, solar and wind power energies, cultural, leisure, and recreational resources which includes, but is not necessarily limited to, land, air, airways, water, minerals, wildlife, fish, forests, woodlands, vegetation, livestock and parks.

B. "Surface Disturbance". The alteration of the land resources to an extent that would change its existing utilization (e.g., penetration of the land surface, however slight, disposition of materials upon the surface, withdrawal of rangelands for homesite purposes, etc.).

C. "Natural State". That which occurs or exists in the environment, not a result of man, inclusive of natural regeneration induced by man.

D. "Mineral Agreements". Mineral leases, operating agreements, and any other agreements authorized by the Indian Mineral Development Act of 1982.

### **History**

CN-72-92, November 12, 1992. Amended generally and added Subsection (D).

CD-68-89, December 15, 1989.

### **United States Code**

Indian Mineral Development Act of 1982, see 25 U.S.C. § 2101 *et seq.*

### **§ 693. Purposes**

The purpose of the Committee is to insure the optimum utilization of all resources of the Navajo Nation and to protect the rights, and interests and freedoms of the Navajo Nation and People to such resources.

### **History**

CD-68-89, December 15, 1989. Subsections (2)-(11) were deleted, and the remaining paragraph was amended generally.

ACMA-35-84, March 14, 1984.

### **§ 694. Membership**

The Committee shall consist of eight members of the Navajo Nation Council.

## **History**

CD-68-89, December 15, 1989. Increased Committee membership from "6" to "8"; and Subsections (B), (C), and (D) were deleted.

### **§ 695. Powers**

A. The Committee shall have all powers necessary and proper to carry out the purposes set forth above, and to promulgate rules and regulations thereto.

B. The Resources Committee shall have the following powers, including the authority to delegate to appropriate Executive Branch officials within the Division of Natural Resources provided that the Committee first approves rules and regulations governing such delegations and to rescind such delegations, and to adopt resolutions, regulations or policies that shall be necessary and proper for carrying into execution the following powers:

1. To act as the Central Grazing Committee in order to accomplish their duties as set forth in 3 N.N.C. §§ 832 and 852.

2. To give final approval of any land exchanges or non-mineral leases, subleases or assignments of leases of Navajo land, rights-of-way, prospecting permits, sand and gravel permits, including royalty rates and bonding rates of such permits, integration of tracts and unitization of approved-mineral agreements, mission site leases, and other licenses and usufructuary interests in Navajo land, including unrestricted (fee) land, in accordance with applicable federal and Navajo Nation laws.

3. To review, monitor, prioritize and/or negotiate all proposed land acquisitions and energy development agreements. The Resources Committee shall recommend to the Navajo Nation Council all actions which may involve the approval of mineral agreements, land acquisitions, and energy development agreements.

4. To give final approval of homesite lease procedures; and promulgate rules and regulations thereto.

5. To delegate authority to the Department Director of the Navajo Land Department (NLD) to review and grant individual homesite leases and certificates in accordance with procedures adopted by the Resources Committee. Such delegated authority shall be limited to withdrawal of one acre or less of Tribal Trust/Fee Lands for residential purposes, excluding the authority to withdraw land for residential subdivisions and other withdrawals.

6. To give final approval of all land withdrawals for residential subdivisions, rights-of-way, including all surface easements and other clearances related but not limited to powerline, waterline, and sewer line extensions.

7. To oversee and regulate all activities within Navajo Nation lands, including actions which may involve disposition or acquisition of resources, surface disturbance, or alteration of the natural state of the

resource.

8. To approve an overall Resource Management Plan of the Navajo Nation, including regulations governing the designation and use of resources.

9. To approve all water development projects utilizing Navajo water resources.

10. To give final confirmation of appointments to the Navajo Nation Water Rights Commission.

11. To issue cease and desist orders, and to assess fines for violations of its regulations and orders.

12. To oversee the enforcement and administration of applicable Navajo Nation and federal laws, regulations, guidelines, and administrative procedures in the development and utilization of resources.

13. To establish Navajo Nation policy with respect to the optimum utilization of all resources, including the authority to initiate and require studies of the natural resources for the protection and efficient utilization, management, administration, and enhancement of such resources and to approve consultants for such studies. The Resources Committee shall report to the Navajo Nation Council the findings and recommendations of committee studies of such resources.

14. To represent the Navajo Nation at local, state, and federal levels, in cooperation and coordination with the President of the Navajo Nation and the Intergovernmental Relations Committee of the Navajo Nation Council, on proposed legislation or actions affecting resource issues, natural resources development, and research and energy resources.

15. To serve as Legislative oversight authority for the Division of Natural Resources, District Grazing Officers, Eastern Navajo Land Board and Farm Boards, and over all matters affecting Navajo resources.

#### **History**

CO-59-03, amended 2 N.N.C. § 695 (B) (1), (4) and (5).

CAP-17-03, April 23, 2003, Added Subsection 695(B)(10), authorizing final confirmation of members to the Navajo Nation Water Rights Commission.

CN-72-92, November 12, 1992. Amended generally.

CD-68-89, December 15, 1989. Amended generally.

**Note.** Paragraphs 4-13 renumbered for purposes of statutory form and slightly reworded for clarity and grammatical form.

#### **Cross References**

Range land leases, see 3 N.N.C. § 501 *et seq.*.

Leasing, Economic Development Committee powers, see 2 N.N.C. § 724(B).

## **Annotations**

### **1. Court jurisdiction**

"The Navajo Nation District Courts continued to have jurisdiction over all land dispute cases filed in the courts between the time of the *In re: Mary Joe Ellis Joe*, 6 Nav. R. 177 (1990) and November 12, 1992." *Malone, et al. v. Yazzie, et al.*, 7 Nav. R. 88, 90 (Nav. Sup. Ct. 1994).

### **2. Office of Hearings and Appeals**

"If it has been determined that the objecting party has no grounds to object, such homesite application will be processed and finalized. Homesite Lease Policy & Procedures, XIII B.7. This provision clearly supports the notion that a groundless objection will not halt the finalization of a homesite lease application. Thus, the OHA erred in its legal conclusion that the Kings' consent was a condition precedent. The OHA does not explain how or what law provides that consent is a condition precedent. The OHA's legal conclusion therefore was not supported by substantial evidence and is not in accordance with the law." *Begay v. King*, No. SC-CV-51-06, slip op. at 4 (Nav. Sup. Ct. April 13, 2009).

"The Court holds the OHA has jurisdiction to hear and decide a grazing dispute which predates Navajo Nation Council Resolution CO-59-03 where an official decision is inadequate to conduct an appellate review." *Charley and Looking Glass v. Benally, et al.*, No. SC-CV-19-07, slip op. at 8 (Nav. Sup. Ct. December 10, 2008).

### **3. Homesite leases**

"In 2003, the Navajo Nation Council, by Resolution CO-59-03 (October 21, 2003), authorized the OHA to hear and decide disputes concerning grazing rights and land boundaries. See also *Charlie v. Benally*, No. SC-CV-19-07, slip op. at 6 (Nav. Sup. Ct. December 10, 2008) (OHA delegated authority to resolve all grazing, land and fencing disputes not pending appeal before the Resources Committee). The [Homesite Lease] Policy & Procedure outlines the homesite application process and permits a land or grazing permittee to intervene." *Begay v. King*, No. SC-CV-51-06, slip op. at 3 (Nav. Sup. Ct. April 13, 2009).

## **§ 696. Meetings**

Meetings shall be held on the second and fourth Thursday of each month.

## **History**

CN-72-92, November 12, 1992. Amended generally.

CMY-26-90, May 11, 1990. Subsection (B) on quorum requirements deleted. Quorum requirements for all Committees found at 2 N.N.C. § 183.

CD-68-89, December 15, 1989. Meeting dates and quorum requirements generally changed.

ACMA-35-84, March 14, 1984.

## **Article 14. Economic Development Committee**

### **§ 721. Establishment**

The Economic Development Committee is hereby established and continued as a Standing Committee of the Navajo Nation Council.

#### **History**

CD-68-89, December 15, 1989. Name "Economic and Community Development Committee" changed to "Economic Development Committee."

CJY-32-88, July 28, 1988. Provided for a revised Plan of Operation for the Committee.

ACMA-35-84, March 14, 1984.

CJA-4-79, January 26, 1979. Provided that each agency have at least one member on the Committee.

CAU-37-73, August 22, 1973. Amended generally.

CJA-6-71, January 13, 1971. Rescinded Res. 1922-1951, p. 515, passed July 15, 1950, which related to a "Trading Committee."

### **§ 722. Purpose and scope**

The purposes of the Committee shall be:

A. To establish and implement laws, rules and regulations and policies to streamline procedures for approval, management, and enforcement to enhance the development of the economy and increase development on the Navajo Nation;

B. To implement and amend the Navajo Nation Business Site Leasing Regulations of 2005, promulgated from 25 U.S.C. § 415(e), in accordance with Navajo and Federal laws.

#### **History**

CD-48-07, December 19, 2007. Overrode Presidential veto of CO-38-07, October 16, 2007.

CD-68-89, December 15, 1989. Subsections (A)-(D) were deleted and the remaining introductory Paragraph was generally amended.

CJY-32-88, July 28, 1988. Amended generally.

ACMA-35-84, March 14, 1974.

## **§ 723. Membership**

Membership of the Committee shall consist of eight members of the Navajo Nation Council.

### **History**

CD-68-89, December 15, 1989. Membership increased from "6" to "8", and Subsections (B), (C), and (D) were deleted.

CJY-32-88, July 28, 1988.

## **§ 724. Powers**

### **A. Generally**

The Committee shall have all powers necessary and proper to carry out the purposes set forth above.

B. The Committee shall have the authority to promulgate business site lease regulations, redelegation of approval authority, issue leases, permits and licenses.

1. The Committee shall have the authority to promulgate regulations governing the business, commercial or industrial site leasing, permitting and licensing of Navajo Nation lands, including unrestricted (fee) lands for business purposes. This authority does not extend to use of lands for resources (forestry, grazing, farmlands, ranches and parks), mineral and homesite purposes and allotments. Such regulations shall set forth the policies and standards to be followed in approving, amending, transferring or terminating business site leases, permits and licenses and setting, increasing, decreasing, or waiving rental rates.

2. The Committee shall, in accordance with approved regulations, grant final approval of non-mineral business leases, permits licenses and associated right-of-way for the use of Navajo Nation lands, including unrestricted (fee) lands for business purposes. The Committee may delegate its approval or granting authority to the Division of Economic Development of the Executive Branch, an entity, governance certified Chapters, or Townships of the Navajo Nation provided that the Committee first approves rules and regulations governing such delegations and rescission of such delegations. The Committee's authority includes business site lease transactions, including industrial, shopping center and other commercial leases, subleases, modifications, assignments, leasehold encumbrances, and transfers, renewals and extensions, and terminations in accordance with all applicable laws.

### **C. Business Site Leasing Management Plan.**

1. The Committee shall grant final approval of the Administrative and Business Site Leasing Management Plan for the Division of Economic Development, including any proposed amendments.



2. The Committee shall grant final approval for the Administrative and Business Site Leasing Management Plan for governance certified Chapters, Townships, or an appropriately designated entity. Such approval shall be conditioned upon the written recommendation of the Division of Economic Development, including any proposed amendments.

3. Any Administrative and Business Site Leasing Management Plan may be rescinded by the Committee based upon the written recommendation of the Division of Economic Development and in accordance with the rules and regulations governing such rescission of delegation.

4. The Administrative and Business Site Leasing Management Plan must be in accordance with the Navajo Nation Business Site Leasing Regulations of 2005, as amended.

D. Determination of findings.

1. The Committee is authorized to confirm or deny findings only for rescission of delegation of final approval authority and/or rescission of approval of the Administrative and Business Site Leasing Management Plan, subject to this Subsection (2).

2. The Committee shall conduct hearings only for alleged violations of the Navajo Nation Business Site Leasing Regulations of 2005 as amended, an approved Administrative and Business Site Leasing Management Plan, and the uniform rules and regulations governing delegations from the Committee. These hearings involve only those parties that have received delegation of final approval authority and have an approved Administrative and Business Site Leasing Management Plan, including the Division of Economic Development, an entity, governance certified Chapters, Townships, and other forms of municipal government.

E. Chapter, Townships, and other municipal forms of government.

The Committee shall periodically receive reports and review operations and shall make recommendations to assist in the enhancement of economic development pertaining to business development Chapters, Townships or other forms of municipal government that have received delegation of final approval authority and have an approved business site lease management plan.

F. Economic Development Land Withdrawal

The Committee shall review and grant final approval of land withdrawals for economic development projects, subject to Chapter approval and/or existing Navajo Nation law regarding local land use control.

G. Economic and Business Development

The Committee shall approve economic development plans which require the use of Navajo Nation funds and/or assets; shall be the central point of contact for economic development activities; shall establish and approve the Navajo Nation Overall Economic Development Plan and Ten Year Plan including the priority lists for economic and business development projects funded by Navajo Nation and federal funds; development plans for individual business site leases

shall not be subject to such approval.

#### H. Navajo Nation Enterprises and Other Entities

1. The Committee shall periodically receive reports and review the operations of the Navajo Nation enterprises, including all tribal gaming enterprises, authorities and industries and shall recommend the creation, reorganization, termination or "Privatization" of any enterprise to the Navajo Nation Council. The Committee shall also confirm appointments to enterprise boards.

2. The Committee shall jointly with appropriate Standing Committees of the Navajo Nation Council do all things necessary and proper to create an independent financial institution designed to provide credit and financing to the Navajo Nation business community.

#### I. Tribal Laws and Regulations; Commerce and Business; Taxation.

1. The Committee shall propose or review legislation relating to commerce and business within the Navajo Nation, and shall recommend the adoption or amendment of such laws to the Navajo Nation Council.

2. The Committee shall, in consultation with the Navajo Tax Commission, make recommendations to the Navajo Nation Council regarding taxation proposals affecting business or commercial activities.

#### J. Oversight

The Committee shall serve as the oversight committee of the Division of Economic Development or its successor in responsibility, including those activities which deal with the planning, development, promotion and oversight of economic development activities.

#### K. Other Powers

The Committee shall have the power to represent the Navajo Nation in matters related to economic development.

### **History**

CD-48-07, December 19, 2007. Overrode Presidential veto of CO-38-07, October 16, 2007.

CJA-12-01, Amended § 724(B).

CD-68-89, December 15, 1989. Amended generally.

CJY-32-88, July 18, 1988.

ACMA-35-84, March 14, 1984.

### **Cross References**

Business Site Leasing Act, see 5 N.N.C. §§ 2301-2305, and CJA-12-01, January

24, 2001.

Resources Committee, powers related to land, see 2 N.N.C. § 695 and 24 N.N.C. § 101 *et seq.*

#### **§ 725. Meetings**

Meetings shall be held on the first and third Wednesday of each month.

#### **History**

CMY-26-90, May 8, 1990. Subsection (B) on quorum requirements deleted. Quorum requirements for all Committees found at 2 N.N.C. § 183.

CD-68-89, December 15, 1989. Quorum requirements generally changed. Except for meeting dates, the language of Subsection (A) was deleted.

CJY-32-88, July 28, 1988.

**Article 15. [Reserved]**

**Article 16. [Reserved]**

**Article 17. [Reserved]**

### **Article 18. Intergovernmental Relations Committee**

#### **§ 821. Establishment**

The Intergovernmental Relations Committee is hereby established as a standing committee of the Navajo Nation Council.

#### **History**

CD-68-89, December 15, 1989.

ACMA-35-84, March 14, 1984.

#### **§ 822. Purposes**

The purposes of the Committee are:

A. To coordinate all federal, county and state programs with other standing committees and branches of the Navajo Nation government to provide the most efficient delivery of services to the Navajo Nation.

B. To ensure the presence and voice of the Navajo Nation.

#### **History**

CD-68-89, December 15, 1989.

ACMA-35-84, March 14, 1984.

**§ 823. Membership; selection; Chairperson**

A. The Committee shall consist of the Speaker of the Navajo Nation Council and the chairpersons of the Navajo Nation Council standing committees. In the absence of the chairperson of a standing committee, the vice-chairperson shall represent the standing committee.

B. The Chairperson of the Committee shall be the Speaker of the Navajo Nation Council.

C. In the absence of the Speaker, the members of the committee may select a Chairperson Pro Tem.

**History**

CD-68-89, December 15, 1989.

ACMA-35-84, Mardi 14, 1984.

**§ 824. Powers**

A. The Committee shall have all the powers necessary and proper to carry out the purposes set forth above.

B. The Committee shall have the following powers:

1. To serve as the oversight committee for the Office of Legislative Services and other offices, programs, commissions, boards or task forces under the Legislative Branch of the Navajo Nation government and to approve and amend plans of operation thereto.

2. To assist and coordinate all requests for information, appearances and testimony relating to proposed county, state and federal legislation impacting the Navajo Nation.

3. To review and continually monitor the programs and activities of federal and state departments and to assist development of such programs designed to serve the Navajo People and the Navajo Nation through intergovernmental relationships between the Navajo Nation and such departments.

4. To authorize, review, approve and accept any and all contracts, grants and associated budgets with the United States, its departments and agencies for the implementation of the Indian Self-Determination and Education Assistance Act as amended upon the recommendation of the standing committee which has oversight of the division, department or program applying for the contract and/or grant.

5. To coordinate with all committees, Chapters, branches and entities concerned with all Navajo appearances and testimony before Congressional committees, departments of the United States government, state legislatures and departments and county and local governments.

6. To authorize, review, approve and accept agreements, including contracts and grants, between the Navajo Nation and any federal, state or regional authority upon the recommendation of the standing committee which has oversight of the division, department or program which has applied for the agreement, or upon recommendation of the Chapter.

7. To recommend to United States departments and agencies, the states and various regional agencies the appointment of individuals who, in the judgment of the Committee, will fulfill the requirements of their office and serve the interests of the Navajo Nation.

8. To continually monitor contracts with state, federal and regional entities to ensure compliance with applicable laws, regulations and contract terms.

9. To review and approve the negotiation and setting of the Navajo Nation's indirect cost or administrative cost rate agreements with the cognizant federal agent. When in the best interest of the Nation, the Committee may waive the indirect cost or administrative cost rate when:

a. The division, department or program requesting the waiver demonstrates a statutory and/or regulatory requirement that limits the indirect cost or administrative cost rate available for a particular grant or contract, or

b. There is a showing of necessity and a commitment of available general funds by the division, department or program requesting the waiver which is available to offset the loss in indirect costs or administrative costs.

c. Chapters meeting these requirements will not be subject to any administrative costs assessed by the central government.

10. To review and approve the distribution of funds appropriated or allocated to assist enrolled Navajos residing outside the Navajo Nation.

#### **History**

CD-68-89, December 15, 1989.

ACMA-35-84, March 14, 1984.

**Note.** Word "in", appearing at Subsection (B)(10) deleted.

#### **United States Code**

Indian Self-Determination and Education Assistance Act, see 25 U.S.C. § 450 *et seq.*

#### **§ 825. Meeting**

Regular meetings shall be held on the first and third Monday of each month.

### **History**

CMY-26-90, May 8, 1990. Subsection (B) was deleted. Quorum requirements for all Committees found at 2 N.N.C. § 183 (E).

CD-68-89, December 15, 1989. Meeting and quorum requirements changed.

**Prior law.** ACMA-35-84, March 14, 1984.

### Article 19. Ethics and Rules Committee

#### **§ 831. Establishment**

The Ethics and Rules Committee of the Navajo Nation Council is hereby established and continued as a standing committee of the Navajo Nation Council.

### **History**

CD-68-89, December 15, 1989.

ACJA-37-89.

ACMA-130-84, October 10, 1984. Plan of Operation for Ethics and Rules Committee amended generally.

ACMA-35-84, March 14, 1984.

CJA-1-83, January 25, 1983.

#### **§ 832. Purposes**

The purposes of the Committee are as follows:

A. To insure that public officials and affected employees of the Navajo Nation are held to the highest standards of ethical conduct.

B. To provide for a fair, honest and an efficient government of the Navajo Nation, through review, recommendation and sponsorship of projects, legislation, rules and standards in furtherance of these ends.

### **History**

CD-68-89, December 15, 1989. Amended generally.

ACJA-37-89, January 26, 1989.

ACMA-130-84, October 10, 1984.

ACMA-35-84, March 14, 1994.

#### **§ 833. Membership**

The Committee shall consist of eight delegates of the Navajo Nation

Council.

### **History**

CD-68-89, December 15, 1989. Increased Committee membership from "6" to "8" and deleted Subsections (B), (C), and (D).

ACJA-37-89, January 26, 1989.

ACMA-35-84, March 14, 1984.

### **§ 834. Powers**

A. The Committee shall have all the powers necessary and proper to carry out the purposes set forth above.

B. The Committee shall have the power:

1. To review and recommend rules of procedure for the effective and efficient conduct of the Navajo Nation Council and its Committees.

2. To recommend legislation to maintain the highest standards of ethical conduct in the functions of the Navajo Nation government.

3. To perform the duties and responsibilities delegated by and implement the provisions of the Navajo Nation Ethics in Government Law, 2 N.N.C. § 3741, *et seq.* and such other authority as may be delegated from time to time.

4. To provide for the compilation and publication of all Navajo Nation laws, rules and regulations.

5. To review and recommend an agenda for all Navajo Nation Council sessions.

6. To promulgate such rules and regulations as necessary to execute its authority.

7. To serve as the oversight authority for the Ethics and Rules Office.

8. To review and recommend referendums and initiatives to the Navajo Nation Council.

9. To appoint a Director of the Ethics and Rules Office of the Navajo Nation who will serve at the pleasure of the Committee.

### **History**

CD-68-89, December 15, 1989. Amended generally.

ACJA-37-89, January 26, 1989.

ACO-130-84, March 14, 1984.

ACMA-35-84. March 14, 1984.

#### **Cross References**

Referendums (Election Code), see also 11 N.N.C. Part 2.

#### **§ 835. Meetings**

Meetings shall be held on the first and third Friday of each month.

#### **History**

CMY-26-90, May 8, 1990. Subsection (B) deleted. Quorum requirements for all Committees found at 2 N.N.C. § 183 (E).

CD-68-89, December 15, 1989. Amended generally.

#### **Subchapter 10. [Reserved]**

#### **Subchapter 11. Boards and Commissions**

#### **Article 1. Navajo-Hopi Land Commission**

#### **United States Code**

Navajo and Hopi tribes, settlement of rights and interests, see 25 U.S.C. § 640d *et seq.*

#### **§ 851. Establishment; purposes**

A. The Navajo-Hopi Land Commission ("Commission") is hereby established within the Legislative Branch.

B. It is the purpose of the Commission to:

1. Monitor, collect, and update information on any and all land use conflicts between the Navajo Nation and the Hopi Tribe, and any claimants in and to lands within the area described in the Act of June 14, 1934 (48 Stat. 960).

2. Speak and act for the Navajo Nation with respect to the land selection and land exchange provisions of P.L. 96-305.

#### **History**

CD-68-89, December 15, 1989. The Navajo-Hopi Land Commission was moved from the Executive Branch (2 N.N.C. § 330 1) and placed within the Legislative Branch.

ACAP-49-83, April 4, 1983. The name of the Commission was changed. from "Navajo-Hopi Land Dispute Commission" to "Navajo-Hopi Land Commission." Also, a "purpose" section was added.



CAU-70-72, August 7, 1972.

**§ 852. Membership; selection; Chairperson and Vice-chairperson; term of office; ex-officio members**

A. The Commission shall consist of eleven regular voting members and two ex-officio members who shall be appointed by the Speaker of the Navajo Nation Council with the approval of the Intergovernmental Relations Committee of the Navajo Nation Council. The Commission shall have the authority to establish subcommittees as deemed appropriate to provide advisory input from citizens, professionals, federal and other non-elected sources.

B. The Commission shall consist of:

1. Eleven voting members of the Navajo Nation Council representing areas affected by the Navajo-Hopi Land Dispute.

2. All members of the Commission shall be appointed by the Speaker of the Navajo Nation Council and shall serve at the pleasure of the Intergovernmental Relations Committee of the Navajo Nation Council.

3. The Agency Superintendent, Bureau of Indian Affairs, of Tuba City Agency and Crownpoint Agency and tribal employees shall provide technical input to the Commission.

C. The Chairperson and Vice-Chairperson of the Commission shall be selected by the Commission.

D. Commission members shall serve a term of office coinciding with the term of office of members of the Navajo Nation Council and until their successors are appointed.

E. The President and Vice-President of the Navajo Nation shall serve as ex-officio members of the Commission.

**History**

CD-68-89, December 15, 1989.

ACAP-49-83, April 4, 1983.

**§ 853. Powers**

A. General. The Commission shall have all powers necessary and proper to carry out the purposes set forth in 2 N.N.C. § 851.

B. Enumerated Powers. The Commission is hereby authorized and directed:

1. To advise the President of the Navajo Nation concerning all matters relating to land use conflicts between the Navajo Nation and the Hopi Tribe, and any claimants in and to lands within the areas described in the Act of June 14, 1934 (48 Stat. 960).

2. To speak and act for the Navajo Nation with respect to the land selection and land exchange provisions of P.L. 96-305 by making such selections and approving or disapproving any proposed exchanges, subject to the limitations set forth in resolution CN-69-80.

#### **History**

CD-68-89, December 15, 1989.

ACAP-49-83, April 4, 1983.

#### **Cross References**

GSCF-10-91, January 9, 1991.

CN-69-80, November 7, 1980.

#### **§ 854. Meetings**

Meetings shall be held on the call of the Chairperson of the Commission, the President of the Navajo Nation, or upon written request of any six members of the Commission. At any meeting, a quorum shall consist of six members.

#### **History**

CD-68-89, December 15, 1989. Amended generally.

ACAP-49-83, April 4, 1983.

#### **§ 855. Procedure**

Until such time as the Navajo Nation Council adopts procedures and rules for the conduct of Commission business, the Commission is empowered to develop its own procedure for the conduct of meetings, provided that all formal substantive action shall be taken by written resolution duly certified by the presiding officers, or memorialized by written memorandum setting forth the action taken and signed by the presiding officer and filed with the Central Records Department of the Navajo Nation. Minutes shall be kept of all meetings and shall be officially recorded by the Office of Legislative Services.

#### **History**

CD-68-89, December 15, 1989.

ACAP-49-83, April 4, 1983.

#### **§ 856. Staff**

A. There shall be a Navajo-Hopi Land Commission Office under the direction of the President of the Navajo Nation. The President of the Navajo Nation shall appoint a staff assistant who shall head the Land Commission Office who shall serve at the pleasure of the President of the Navajo Nation.

B. The Commission shall utilize the Navajo-Hopi Land Commission Office in

performing its assigned functions.

#### **History**

CD-68-89, December 15, 1989.

ACAP-49-83, April 4, 1983.

#### **Cross References**

GSCF-10-91, January 9, 1991.

#### **§ 857. Reports**

The Commission shall report quarterly and in writing to the Navajo Nation Council concerning matters relating to the land use conflict and agreements with the Hopi Tribe.

#### **History**

CD-68-89, December 15, 1989.

ACAP-49-83, April 4, 1983.

#### **§ 858. Subcommittees**

The Commission is authorized and directed to establish at least one Citizen's Advisory Subcommittee to provide advice and assistance to the Commission. The members of the Citizen's Advisory Committee shall be non-elected private citizens who reside in or near the lands affected by P.L. 96-305 and such other private citizens as the Commission and the President of the Navajo Nation may deem appropriate.

#### **History**

CD-68-89, December 15, 1989.

ACAP-49-83, April 4, 1983.

### **Article 2. Eastern Navajo Land Commission**

#### **§ 861. Establishment; purpose**

A. The Eastern Navajo Land Commission ("Commission") is established as a Commission of the Navajo Nation Council within the Legislative Branch.

B. The Commission is established for the following purposes:

1. To advocate for and initiate the acquisition and consolidation of land in or near the Eastern Navajo Agency, Navajo Nation (New Mexico), and to facilitate and ensure the timely processing and consummation of such actions.

2. To provide technical support to the appropriate agencies of the Navajo Nation and otherwise assist the Navajo Nation in securing Navajo Nation territorial, legislative, judicial, administrative and regulatory jurisdiction in the Eastern Navajo Agency.

3. To advocate for the rights of individual Navajo occupants of lands administered by the United States Bureau of Land Management (BLM) or the State of New Mexico.

4. To develop, and assist in the implementation and effectuation of, laws enacted or policies adopted by the Navajo Nation Council concerning land acquisition and consolidation, jurisdiction, and individual Navajo rights in the Eastern Navajo Agency.

5. To coordinate the planning for, advocating for or opposing, and mitigating the impact of energy development in the Eastern Navajo Agency, and to assist in planning and implementing the Navajo Nation's economic development and investment initiatives in or near the Eastern Navajo Agency.

6. To coordinate Navajo Nation efforts concerning land-related matters in the Eastern Navajo Agency with federal, state and local authorities and private interests in the appropriate judicial, legislative, administrative and private settings and in coordination with the Navajo Land Department, the Navajo Nation Department of Justice, or other agencies of the Navajo Nation, as proper.

7. To identify lands owned by others, the acquisition of which may be beneficial to the Navajo Nation, to engage in preliminary negotiations with any prospective seller, and to provide appropriate guidance and direction to the Navajo Nation regarding any proposal that such prospective seller may make to the Navajo Nation.

8. To provide recommendations and guidance to the Navajo Nation Council concerning expenditures of the Navajo Nation's Land Acquisition Trust Fund for lands in the Eastern Navajo Agency.

9. To provide information and assistance to Navajo residents of the Eastern Navajo Agency, the Eastern Navajo Agency Council, and the appropriate Land Boards with respect to land-related matters, and to receive input from Navajo residents of the Eastern Navajo Agency with respect to such matters.

10. To plan and initiate appropriate legislative strategies and initiatives regarding beneficial Navajo Nation, federal and/or New Mexico legislation, in cooperation with the appropriate committees of the Navajo Nation Council and otherwise in accordance with applicable Navajo law.

11. To take the above steps with the ultimate objective of securing reservation boundary legislation that will include the checkerboard area in New Mexico as part of the formal, recognized Navajo Indian Reservation and formal protection of areas or sites of cultural, religious or historic significance to the Navajo Nation in or near the Eastern Navajo Agency.

## **History**

CJY-21-08, July 23, 2008. Overrode Presidential veto of CAP-11-08.

CAP-11-08, April 22, 2008.

CD-68-89, December 15, 1989. The Commission was moved from the Executive Branch (2 N.N.C. § 3321) and placed within the Legislative Branch (2 N.N.C. § 861). Also, the "standing committee" status was changed.

CF-2-80, February 5, 1980.

### **§ 862. Membership**

A. The Commission shall be composed of seven members.

B. Six members shall be Navajo Nation Council Delegates representing the so-called Checkerboard Area of the Navajo Nation, nominated by the Speaker of the Navajo Nation Council and confirmed by the Navajo Nation Council. Representation on the Commission shall consist of one member from each of the following areas:

Area I: Counselor, Huerfano and Nageezi Chapters;

Area II. Becenti, Crownpoint, Lake Valley, Nahodishgish, Standing Rock and White Rock Chapters;

Area III. Ojo Encino, Pueblo Pintado, Torreon/Star Lake and White Horse Lake Chapters;

Area IV. Baca/Prewitt, Casamero Lake, Iyanbito, Littlewater, Mariano Lake, Pinedale, Smith Lake and Thoreau Chapters;

Area V. Bread Springs, Chichiltah, Church Rock, Manuelito, Red Rock, Rock Springs and Tsayatoh Chapters; and

Area VI. Alamo, Ramah and Tóhajiilee Chapters.

C. One at-large member shall be an enrolled member of the Navajo Nation skilled and experienced in land and/or energy matters, nominated by the President of the Navajo Nation and confirmed by the Navajo Nation Council.

D. Each of the six members who are Navajo Nation Council Delegates shall serve as a member of the Commission concurrent with his or her term as a Council Delegate and until his or her successor is confirmed in accordance with Subsection B. The seventh member shall serve until his or her successor is confirmed in accordance with Subsection C.

E. The Commission shall appoint a Chairperson and Vice-Chairperson from among its members, and may establish committees from among its members if deemed appropriate by the Commission to facilitate the business of the Commission.

## History

CJY-21-08, July 23, 2008. Overrode Presidential veto of CAP-11-08.

CAP-11-08, April 22, 2008.

CD-68-89, December 15, 1989. Previously at 2 N.N.C. § 3322. Amended generally.

CF-2-80, February 5, 1988.

### § 863. Powers and duties

The Commission is hereby authorized and directed to:

A. Establish an office at Crownpoint for the transaction of business, and establish any sub-offices within the Eastern Navajo Agency to house the administration to the Commission or other purposes, as deemed beneficial to the efficient delivery of services by the Commission.

B. Consistent with generally applicable Navajo law, represent the Navajo Nation on land and energy matters concerning the Eastern Navajo Agency; provided, however, that any agreement involving more than five hundred thousand dollars (\$500,000) or the purchase of more than 640 acres, or any land lease or other agreement whose term extends for more than one year from its effective date shall require the concurrence of the Resources Committee of the Navajo Nation Council in order for such agreement to be valid.

C. Hire such staff and consultants, including legal counsel, as may be provided for in the annual Navajo Nation budget of the Commission provided, however, that the concurrence of the Navajo Nation Attorney General is required prior to retention of legal counsel by the Commission.

D. Issue subpoenas, hold administrative hearings, and issue such other orders as may be necessary and proper to effectuate its purposes and authorities, and which are otherwise consistent with Navajo and any applicable federal law.

E. Report quarterly and in writing to the Navajo Nation Council, and report periodically to the Eastern Navajo Agency Council, concerning activities of the Commission.

F. Provide for the reimbursement of the Commission members for travel and other expenses reasonably incurred and consistent with the practice of other standing committees of the Navajo Nation Council.

G. Provide for the compensation of the Commission members for meeting attendance per rate set in the meeting policies.

H. Establish a budget for the Commission's activities and present such budget for approval by the Navajo Nation Council or authorized Committee thereof, seek independent sources and mechanisms for securing funding independent of such budget, maintain accurate books and records of all income and expenditures of the Commission, which shall be subject to audit by the Navajo Nation, or its agents, annually.

I. Assist the Navajo Department of Water Resources in planning and implementing systems for the production, acquisition and delivery of potable water throughout the Eastern Navajo Agency, and assist the Navajo Nation in securing water rights for the Navajo Nation and its citizens in the Eastern Navajo Agency.

J. Assume primary responsibility for the direction of the Navajo Nation's land acquisition and consolidation efforts in the Eastern Navajo Agency and the confirmation of Navajo Nation jurisdiction there, working in conjunction with the Navajo Land Department, the Navajo Nation Department of Justice and other appropriate agencies of the Navajo Nation, by, for example:

1. Preserving the Navajo Nation's claim that all unallotted lands in Executive Order 709/744 reservation remain held in trust for the Navajo Nation as a matter of law;

2. Converting the Navajo Nation fee lands to trust status;

3. Acquiring additional fee lands within the Eastern Navajo Agency and converting those lands to trust status;

4. Securing federal legislation to effect the intent of Congress in the Act of March 3, 1921 by confirming the trust status of lands, including mineral interests, set aside for exclusive Indian use under Public Land Order 2198 (1960);

5. Confirming, through legislation or administrative action, the Navajo Nation's right, title and interest in other lands in the Eastern Navajo Agency, including without limitation lands withdrawn under Executive Order 2513 and other lands now administered by the BLM, BIA, or other federal agencies.

6. Facilitating, consistent with the objectives and policies of the Economic Development Committee of the Navajo Nation Council, the purchase of lands outside the Eastern Navajo Agency for economic development or investment purposes;

7. Continuing land exchanges with the BLM under agreements between the Navajo Nation and the BLM, and recommending any amendments to such agreements or new agreements that may be beneficial to the Navajo Nation and the residents of the Eastern Navajo Agency;

8. Asserting Navajo Nation title and interests in cultural artifacts within the Eastern Navajo Agency;

9. Participating actively and otherwise assisting the Navajo Nation's efforts to acquire surplus federal lands in and adjacent to the Eastern Navajo Agency, including the Fort Wingate lands;

10. Supporting the Navajo Nation's efforts to achieve primacy for environmental and other regulatory authority in the Eastern Navajo Agency under retained Navajo sovereignty and/or federal delegations of authority, and work with the Navajo Nation Environmental Protection

Agency, the United States Environmental Protection Agency, and other appropriate governmental agencies to protect the environment and to identify and avoid or mitigate damage to environmentally sensitive or culturally significant areas in the Eastern Navajo Agency;

11. Augmenting and complementing the efforts of Navajo Nation chapters in the Eastern Navajo Agency to secure local governmental authority over all lands within chapter boundaries and, to the extent desired by the several chapters, and consistent with the Commission's purposes, assist such chapters in establishing consortia of chapters to undertake the responsibilities of local self-government under the Navajo Nation Local Governance Act;

12. Supporting the Navajo Nation's taxing and regulatory authority within the Eastern Navajo Agency, opposing taxing and regulatory incursions there by other sovereigns, and recommending cooperative agreements with other governmental entities to the Intergovernmental Relations Committee of the Navajo Nation Council when deemed beneficial by the Commission;

13. Developing data bases, providing input into land use plans, inventories, and other tools to assist with community and economic development, land use planning, and infrastructure development and supporting the expansion, construction, improvement, or installation of utilities, roads, schools, health care facilities, housing, and police and fire stations for the benefit of the residents of the Eastern Navajo Agency;

14. Acquiring for the Navajo Nation, by purchase or exchange or other means, lands owned by the State of New Mexico in the Eastern Navajo Agency; and

15. Evaluating proposals for development of resources within the Eastern Navajo Agency and advising the President of the Navajo Nation, the Resources Committee of the Navajo Nation Council and other appropriate Navajo Nation agencies and officials of the Commission's position and recommendations regarding such proposals.

#### **History**

CJY-21-08, July 23, 2008. Overrode Presidential veto of CAP-11-08.

CAP-11-08, April 22, 2008.

CD-68-89, December 15, 1989. Previously at 2 N.N.C. § 3323. Generally amended.

CF-2-80, February 5, 1980.

#### **§ 864. Staff**

A. The Commission shall engage an Executive Director and such other staff as may be provided for in the annual Navajo Nation budget.

B. The Executive Director shall serve at the pleasure of the Commission.



C. The Executive Director shall have such duties and responsibilities as may be assigned from time to time by the Commission.

#### **History**

CJY-21-08, July 23, 2008. Overrode Presidential veto of CAP-11-08.

**Note.** Subsection C slightly reworded for grammatical purposes.

CAP-11-08, April 22, 2008.

CD-68-89, December 15, 1989. Previously at 2 N.N.C. § 3324.

CF-2-80, February 5, 1980.

#### **§ 865. Meetings; procedures**

A. The Commission shall meet once per month on a regular schedule to be determined by the Commission, and, if a special or emergency meeting is required or desirable, on the call of the Chairperson of the Commission or the written request of any three members.

B. At any meeting a quorum shall consist of four members.

C. All formal substantive action shall be taken by written resolution certified by the presiding officer or shall be reflected in summary memorandum attested to by the presiding officer.

D. The Commission is empowered to develop and establish such other procedures for meetings as it deems just and proper.

#### **History**

CJY-21-08, July 23, 2008. Overrode Presidential veto of CAP-11-08.

CAP-11-08, April 22, 2008.

CD-68-89, December 15, 1989. Previously at 2 N.N.C. § 3325. Amended generally.

CF-2-80, February 5, 1980.

### **Article 3. Navajo Board of Election Supervisors**

#### **History**

CD-68-89, December 15, 1989.

#### **Cross References**

11 N.N.C., Part 1, § 1 *et seq.*

#### **§ 871. Establishment; purposes**

A. The Navajo Board of Election Supervisors, hereinafter, the Board, and the Election Administration Office, hereinafter, the Office are hereby established. The Board is created by the Navajo Nation Council as an independent entity. The Board shall be responsible to the Navajo Nation Council only and shall be placed under the Intergovernmental Relations Committee who shall have ministerial oversight and whose primary purpose shall be routing documents and record-keeping incidental to the authority delegated to the Board and the Office by the Election Code; and to cause effect to the authority entrusted solely in the Board and Office; and to guard the public interests entrusted to the Board.

B. The purposes of the Board are to:

1. Provide efficient and uniform administration and conduct of elections.

2. Provide the opportunity for each qualified elector to exercise his or her right to vote for a candidate of his or her choice.

3. Provide the opportunity for all qualified person(s) to serve the Navajo public by seeking office.

4. Provide for fair, unbiased and untainted elections.

5. Encourage voter registration at the Navajo Nation, state and federal levels.

6. Guard against abuse of the electoral system in the Navajo Nation.

### **History**

CD-68-89, December 15, 1989.

### **Annotations**

#### **1. Construction and application**

"The Board is an independent entity, responsible only to the Navajo Nation Council, ... " *Navajo Nation v. Redhouse*, 6 Nav. R. 305, 307 (Nav. Sup. Ct. 1990).

#### **§ 872. Membership; terms; Chairperson and Vice-Chairperson**

A. The Board shall be composed of 10 members to be elected. Each of the five agencies shall have two representatives. The Election of the 10 members shall be in conformity with the Election Code.

B. All members shall serve four year terms on a staggered basis in conformity with the Election Code.

C. The Chairperson and Vice-Chairperson shall be selected from among the members.

D. In the event the Chairperson and Vice-Chairperson are absent at a Board meeting, the majority of the members present shall select a Pro Tem Chairperson to conduct the meeting.

### **History**

CD-68-89, December 15, 1989.

**Note.** Slightly reworded for grammatical purposes.

### **§ 873. Powers and duties**

A. General. The Board shall have all powers necessary and proper to carry out the purposes set forth in the Election Code.

B. Enumerated Powers. The Board is hereby authorized and directed:

1. To administer, implement and enforce the Navajo Election Code.
2. To oversee and supervise generally all Navajo Nation elections.
3. To compile information regarding elections, and distribute and educate the Navajo public to include printing and publishing the Election Code and procedures in pamphlet form for distribution to all certified Chapter officials, candidates, poll officials and registrars.
4. To hear all election disputes, including the power to subpoena witnesses.
5. To make Board and Administrative policies.
6. To establish rules and regulations and to interpret the Election Code consistent with Navajo Nation laws.
7. To obtain and maintain uniformity in the application of the Election Code and operation of the Election office.
8. To develop and recommend to the Navajo Nation Council all apportionment plans for election purposes.
9. To hire and maintain direct authority over the Director of the Election Administration Office and confirm the hiring of the Deputy Director by the Director and maintain general supervision over an election staff to carry out authority vested in the Board.
10. To develop and submit separate annual budgets for the Board and the Election Administration to include devising and managing a revolving account utilizing filing, penalty and resignation fees for special election costs in addition to the annual appropriation for this category.
11. To coordinate with county, state, and federal election agencies efforts, including seeking and obtaining from various governmental entities and private organizations funding and support to carry out the

duties and responsibilities set out in the Election Code.

12. To establish subcommittees and delegate to them the authority to declare vacancies, certify elections, and to make rules and regulations not inconsistent with the Election Code.

13. To initiate recounts of ballots, where necessary.

14. To maintain the Election Administration Office and staff independent under its supervision with the Intergovernmental Relations Committee.

15. To maintain such staff and consultants including legal counsel as may be provided for in the annual Navajo Nation budget of the Board.

16. To recommend the withdrawal of land for the establishment of a building facility which is to be separate from other entities and convenient to the public and to request funding from the Navajo Nation to erect such a public building for the operation of the Election Office.

17. To procure necessary supplies, services, equipment and furniture purchases and to enter into contracts through the tribal process.

18. To delegate authority to the Election Office not inconsistent with the Election Code.

19. To bring action as deemed necessary and proper for the enforcement of the Election Code through the Attorney General and report violations/offenses to the Ethics and Rules Committee where necessary.

#### **History**

CJA-05-01, January 24, 2001. Subsections (B)(12) and (13) amended to acknowledge transfer of hearing functions to the Office of Hearings and Appeals.

CD-68-89, December 15, 1989.

**Note.** Slightly reworded for grammatical purposes.

#### **Cross References**

See 11 N.N.C., Part 1, § 321.

#### **Annotations**

##### **1. Construction and application**

"A vote of two-thirds of a quorum of the Navajo Nation Council is necessary to modify or change such powers." *Navajo Nation v. Redhouse*, 6 Nav. R. 305, 307 (Nav. Sup. Ct. 1990).

##### **2. Powers of board**

"Both of these statutes [2 N.T.C. § 873(B)(6) and 11 N.T.C. § 321(A)(6)] limit the Board discretion to interpret the Navajo Election Code of 1990 by requiring that such interpretations be consistent with Navajo Nation law." *Howard v. Navajo Board of Election Supervisors*, 6 Nav. R. 380, 381 (Nav. Sup. Ct. 1991).

"While the Board does have statutory discretion to interpret election laws, such discretion is limited, and the Navajo Nation Supreme Court has appellate jurisdiction to review whether the Board acted within its statutory discretion." *Pioche v. Navajo Board of Election Supervisors*, 6 Nav. R. 360, 364 (Nav. Sup. Ct. 1991).

### **3. Due process**

"An elected official does not have a property right in public office. The office belongs to the voting public. Katenay's due process rights do not stem from his position as a holder of elected office. His due process rights are derived from 2 N.T.C. § 4005, which gives him the right to explain to his constituents the grievances against him and to be voted out of office, or retained, by persons who were present during his explanation." *In re: Removal of Katenay*, 6 Nav. R. 81, 85 (Nav. Sup. Ct. 1989).

"Although 2 N.T.C. § 4005(c) is silent on this matter, fairness and due process are best served by requiring that the Board give an affected official or his authorized representative adequate notice and an opportunity to attend the verification process." *In re: Removal of Katenay*, 6 Nav. R. 81, 84 (Nav. Sup. Ct. 1989).

### **§ 874. Meetings; quorum; compensation**

A. The Board shall meet the 2nd and 4th Thursday of each month unless otherwise scheduled by the majority of a quorum.

B. A simple majority shall constitute a quorum.

C. Where subcommittees are designated, four members shall constitute a subcommittee. Subcommittee action shall require ratification by a quorum of the full Board.

D. All meetings shall be held in Window Rock Navajo Nation, (Arizona). Meetings held elsewhere must be authorized by the Chairperson of the Intergovernmental Relations Committee.

E. All meetings shall be recorded and minutes transcribed. All dispute decisions shall be in writing and filed.

F. Board members attending Board meetings or delegated Election business shall receive sixty dollars (\$60.00) per diem for each day official business is conducted and mileage at twenty-four cents (24 per mile for use of a private vehicle. Full per diem shall be paid for attendance of at least three hours of meeting or until all agenda items are concluded.

### **History**

CJA-05-01, January 24, 2001. Subsection (A) amended to acknowledge transfer of hearing functions to the Office of Hearings and Appeals.

CD-68-89, December 15, 1989.

**Note.** Slightly reworded for grammatical purposes.

#### **§ 875. Ethics**

The Board shall not, for the purpose of personal gain, use any information or conduct any proceeding for the intent of causing harm or injury to the political standing or reputation of any member of the Navajo Nation Council, or any other employee, official or candidate for office of the Navajo Nation. The Board shall conduct themselves in accordance with the requirements of all applicable laws of the Navajo Nation, especially the Navajo Ethics in Government Law.

#### **History**

CD-68-89, December 15, 1989.

**Note.** Slightly reworded for grammatical purposes.

#### **§ 876. Office; purpose**

The Election Administration Office shall implement the Election Code and assist the Board in carrying out authority delegated solely to the Board by the Navajo Nation Council to implement the Election Code and conduct elections.

#### **History**

CD-68-89, December 15, 1989.

#### **§ 877. Director; staff; powers and duties**

A. Powers and duties of the Director. The Director shall have all powers delegated by the Board and necessary and proper to carry out the purposes of the Election Code as authorized by the Board. The duties shall include the following:

1. Assist the Board in implementing and enforcing the Election Code.
2. Assist the Board in maintaining accountability to the Navajo Nation Council and the Intergovernmental Relations Committee and other Departments and Offices.
3. The Executive Director shall hire the Deputy Director with confirmation by the Board.
4. Serve as the Executive Director of the Navajo Election Administration and supervise the administrative staff.
5. Formulate administrative policies for Board approval.

6. Acquire and coordinate voting and election information from the States of Arizona, New Mexico and Utah and from the Bureau of Federal Elections and disseminate the information where necessary to meet objectives and goals.

7. Consult periodically with officials, Council Delegates, other elective offices, and various government officials regarding registration and elections in general, including the scheduling of activities called for by the Election Code and other states, counties, and federal government election requirements.

8. Serve as the communicating and organizing agent for the Board in executive level planning and activities.

9. Solicit available funding with approval of the Board for special programs not of a continuing nature, which relate to registration and elections, including "Voter Registration Drive" and "Get Out to Vote" projects and other educational training programs for Chapter offices, poll officials and the Navajo Nation Council.

10. Supervise and administer staff subject to Navajo Nation Personnel Policies and Procedures, compensation and benefits.

11. Coordinate with the Office of Legislative Services the processing of payroll, budget expenditures for travel, supplies, equipment, property and facilities management.

12. To determine and certify the qualifications of candidates for all elective positions, subject to appeal to the Office of Hearings and Appeals.

B. Powers and Duties of Staff. The staff shall have all powers delegated by the Board and Election Administration Office Director and necessary and proper in carrying out the purposes of the Election Code as authorized by the Board. The duties include the following:

1. Provide administrative support to the Board implementing the Election Code.

2. Register as many Navajos as possible for Navajo Nation, county, state and federal elections on an ongoing basis and insuring that they have the opportunity to vote in these elections.

3. Disseminate voter information across the Navajo Nation by publishing and distributing forms and information pamphlets and where necessary providing information in the Navajo language.

4. Obtain and maintain the cooperation of the appropriate county registrars and other officials in the States of Arizona, New Mexico and Utah to obtaining maximum Navajo voter registration for state and federal elections.

5. Assist in providing ongoing in-service training for Chapter

officials and election workers on a regular basis.

6. Utilize available reach to provide a sound and firm foundation in the areas of voter registration and elections for the Navajo People.

7. Providing logistical and technical assistance to the Board.

8. Assist in the drafting of proposed resolutions for the Board's consideration.

9. Execute the directives of the Board.

10. Assist the Board in the development of revisions of the Election Code for Navajo Nation elections.

11. Provide all required technical and support staff and equipment for Navajo Nation elections.

12. Insure elections are conducted pursuant to the Election Code and in a timely manner.

13. Conduct recounts under the supervision of the Board.

14. Assist the Board in functions as follows:

a. Declare vacancies in elective positions.

b. Oversee the destruction of ballots.

c. Approve policy decisions.

d. Recommend major purchases of election equipment.

e. Serve as a review and fact finding entity regarding election grievances.

f. Certify election results and petitions as provided for in the Election Code.

g. Develop rules and regulations not inconsistent with the Election Code.

h. Review state and federal legislation which may affect the Navajo Nation electorate or Election Code.

i. Attend and participate in recounts of voter tallies.

j. Refer election disputes to the Office of Hearings and Appeals.

k. Enforce the Election Code by reporting violations of the Election Code to the Attorney General or Ethics Office.

l. Study, develop and recommend apportionment plans.



m. Develop and submit annual budgets.

#### **History**

CJA-05-01, January 24, 2001. Subsections (A) (12), (B) (7) and (12) and (14) (J) amended to acknowledge transfer of hearing functions to the Office of Hearings and Appeals.

CD-68-89, December 15, 1989.

**Note.** Slightly reworded for grammatical purposes.

#### **§ 878. Political practices**

The staff shall not, for the purpose of personal gain, use any information or conduct any proceedings for the intent of causing harm or injury to the political standing or reputation of any member of the Navajo Nation Council, or any other employee, official or any candidate for an office of the Navajo Nation. The Director and staff shall conduct themselves in accordance with the requirements of all applicable laws of the Navajo Nation, especially the Navajo Ethics in Government Law.

#### **History**

CD-68-89, December 5, 1989.

**Note.** Slightly reworded for grammatical purposes.

### **Article 4. Commission on Emergency Management**

#### **§ 881. Establishment**

There is hereby established the Navajo Nation Commission on Emergency Management.

#### **History**

CJY-51-90, July 20, 1990.

#### **§ 882. Membership**

A. The Commission shall be composed of six persons, one with technical expertise in each of the following subject areas;

1. Civil defense/law enforcement;
2. First Aid/health;
3. Fire fighting;
4. Environmental,

5. Broadcast and Print Media; and an

6. Elected official.

B. All members of the Commission shall be appointed by the Speaker of the Navajo Nation Council and confirmed by the Intergovernmental Relations Committee of the Navajo Nation Council and shall serve a term concurrent to that of the President of the Navajo Nation, or until replaced, whichever is longer.

C. The President shall designate a Chairperson and Vice-Chairperson of the Commission.

### **History**

CJY-51-90, July 20, 1990.

### **§ 883. Purposes**

A. In conjunction with the Navajo Department of Emergency Management, to coordinate emergency and disaster relief services by the Navajo Nation and non-tribal entities.

B. To serve as the tribal emergency response commission analogous to a state emergency response commission pursuant to the Emergency Planning and Community Right to Know Act, 42 USC § 11001. Under the Act, the Commission responsibilities include:

1. To designate emergency planning districts in order to facilitate preparation and implementation of emergency plans;

2. To appoint a local emergency planning committee for each emergency planning district, and supervise and coordinate the activities of such committees;

3. To establish procedures for receiving and responding to requests from the public for information as provided in the Act, including the designation of an official to serve as the coordinator of information.

4. To notify the Administrator of the U.S. Environmental Protection Agency of problem areas on the Navajo Nation which are subject to the Act;

5. To accept and maintain data submitted by the owners or operators of facilities subject to the Act,

6. To review and make recommendations on emergency plans which shall be submitted by local emergency planning committees to ensure coordination of such plans with emergency response plans of other emergency planning districts;

7. To accept notification from an owner or operator of a facility subject to the Act of the release of an extremely hazardous substance;

8. To accept and maintain emergency and hazardous chemical inventory forms submitted by facility owners or operators who must prepare a material safety data sheet pursuant to the Occupational Safety and Health Act of 1970;<sup>1</sup>

9. To provide for availability for public inspection data required under the Act (under penalty of civil liability); and

10. To recommend a civil action to the Navajo Nation Attorney General against a subject facility operator or owner for non-compliance with the Act.

C. To recommend to the Navajo Nation Council legislation or other appropriate activity regarding natural and man-made emergencies.

### **History**

CJY-51-90, July 20, 1990.

### **§ 884. Powers**

A. General. The Commission shall have all powers necessary and proper to carry out the purposes set forth in § 883 of this Plan of Operation.

B. Enumerated Powers:

1. With the concurrence of the President of the Navajo Nation, to declare states of emergency affecting the Navajo Nation or any section thereof.

2. On behalf of the Navajo Nation, to assist in seeking assistance from federal, state, other tribal governments, and local and private agencies.

3. To obtain, coordinate and oversee assistance, whether in the form of goods, services, equipment, motor vehicles, or personnel, from all divisions, departments and enterprises of the Navajo Nation for use in addressing the requirements of the people in any declared emergency.

4. Within the approved budget, to execute contracts and other agreements for goods and services.

5. Within the approved budget, to employ such persons as may be necessary to carry out the responsibilities of the Commission, with the exception of legal counsel.

6. To establish offices within the Navajo Nation for the transaction of business as necessary.

7. To provide for the compensation of Commission members in a manner consistent with that of commissions of the Navajo Nation Council, pursuant to 2 N.N.C. § 183.

8. To establish such subcommittees as it deems appropriate and to

delegate to such subcommittees the authority it deems proper.

9. To ensure accountability by establishing specific policies, procedures and guidelines for the use of funds, goods, services or any type of assistance intended for use in meeting the requirements of the people in any declared emergency.

#### **History**

CJY-51-90, July 20, 1990.

#### **§ 885. Meetings; quorum**

Meetings shall be held on the call on the Chairperson or Vice-Chairperson of the Commission on Emergency Management, the President of the Navajo Nation, or upon the written request of any three members of the Commission on Emergency Management for the purpose of obtaining timely action on emergency matters. At any meeting, a quorum shall consist of three members.

#### **History**

CJY-51-90, July 20, 1990.

#### **Cross References**

Meetings of committees or commissions, see also, 2 N.N.C. § 183.

#### **§ 886. Procedures**

Until such time as the Navajo Nation Council adopts rules and procedures for the conduct of Commission business, the Commission on Emergency Management is empowered to develop its own procedures for the conduct of meetings, provided that any formal substantive action shall be taken by written resolution duly certified by the presiding officer and filed with the Records Department of the Navajo Nation.

#### **§ 887. Amendments to Plan of Operation**

The Plan of Operation may be amended from time to time by approval of the Government Services Committee of the Navajo Nation Council.

#### **History**

CJY-51-90, July 20, 1990.

### **Article 5. Black Mesa Review Board**

#### **§ 901. Establishment**

There is hereby established the Black Mesa Review Board within the Legislative Branch.

#### **History**

GSCJN-12-06, June 27, 2006.

ACN-143-82, November 10, 1982. Rescinded ACMA-22-82 and reestablished the Board with a revised Plan of Operation.

ACMA-22-82 March 10, 1982, Reestablished the Black Mesa Review Board.

CMY-45-80, May 6, 1980, effective October 1, 1980 abolished the Board.

CN-101-72, November 30, 1972, as amended by Advisory Committee Resolution ACMA-32-78, March 15, 1978. Established the Black Mesa Review Board, formerly codified at §§ 3701-3709 then § 3671-3679 of this title.

**Note.** This Board has been placed in the Legislative Branch by Budget Resolution since FY 1989.

### **§ 902. Purpose and authority**

The purpose of the Board shall be to advocate for fair and just compensation for Navajo families within the five Navajo Nation chapters whose socio-economic and environmental interests are adversely affected or impacted by coal mining and related operations of Peabody Western Coal Company, as authorized and provided for by the company's two coal mining leases with the Navajo Nation, Lease No. 14-20-0603-9910 and Lease No. 14-20-0603-8580, as amended. Peabody Western Coal Company is hereinafter referred to as PWCC and said term includes any of PWCC's employees, officers, contractors, subcontractors, agents, designees, successors, heirs, or assigns. The Board may also make appropriate recommendations to the President of the Navajo Nation, the Navajo Nation Council, the Resources Committee of the Navajo Nation Council, or to PWCC, concerning the health, social welfare, education, and environment of the Navajo People affected by any of PWCC's mining and post-mining or related operations.

### **History**

GSCJN-12-06, June 27, 2006.

ACS-178-89, September 26, 1989. Amended generally.

ACN-143-82, Plan, § I, November 10, 1982.

### **§ 903. Membership of Board**

A. Appointments. The Board shall consist of seven members appointed as follows: One member who must be a resident of a PWCC Lease area shall be appointed by the Kayenta Chapter. One member who must be a resident of a PWCC Lease area shall be appointed by the Forest Lake Chapter. One member shall be appointed by the Shonto Chapter. One member shall be appointed by the Chilchinbeto Chapter. One member shall be appointed by the Black Mesa Chapter. One member shall be appointed by the President of the Navajo Nation. One member shall be appointed by the Speaker of the Navajo Nation Council. To ensure continuity of Board membership, the five Chapters and the President of the Navajo Nation shall appoint their respective members to serve four year terms

in staggered appointments, as provided for herein. Notwithstanding the current expiration dates of their terms, the existing terms of the current Board members shall continue uninterrupted, except as modified as follows: Kayenta, Shonto and Black Mesa Chapters shall make their appointments in March 2006; Forest Lake and Chilchinbeto Chapters shall make their appointments in March 2007; the President and the Speaker shall make his or her appointment in March 2008.

B. Confirmation. Within 30 days of their appointment, each Board appointee shall be presented to the Government Services Committee of the Navajo Nation Council for confirmation. If so confirmed, a Board member's term shall not commence until he or she is administered an oath of office by a judge or justice of the Navajo Nation courts.

C. Chairperson; Vice Chairperson. Within 30 days of their confirmation, the five members shall meet and select a Chairperson and a Vice-Chairperson from the Board membership. The Chairperson and Vice-Chairperson shall serve for a term of one year. The Chairperson shall not vote in any official Board meetings, unless to break a tie vote among the other members. It is required that the Chairperson vote to break a tie.

D. Member languages. All members of the Board shall preferably be fluent in both the English and Navajo languages.

E. Quorum. A simple majority of the Board shall constitute a quorum.

F. Meetings. The Board shall meet at least once a month on the first Tuesday of every month, unless otherwise arranged by the Board. Additional meetings may be held as the Board deems necessary and appropriate.

G. Purpose of Meetings. The purpose of Board meetings shall include, but not be limited to, the discussion of PWCC mining and reclamation plans, imminent relocation for affected families and potential compensation for such families, possible resettlement sites, potential religious/cultural and burial site relocation, planning and coordination of appraisals for existing structures, and education of affected families regarding the comparison of cash benefits to replacement housing.

H. Membership terms. The term of appointment of all Board members shall be four years or until such time as PWCC completes or ceases all mining or related operations pursuant to its leases. Any Board member may be appointed for consecutive terms, but shall be limited to two consecutive terms. Terms of all Board members shall be staggered as described in Subsection 903(A) above to ensure continuity of membership.

I. Compensation. The Budget and Finance Committee of the Navajo Nation Council shall identify funding sources with which Board members shall be compensated for travel, training, conferences, work sessions, and meeting expenses. The Board shall annually submit a formal budget request for funding from the Navajo Nation General Fund in an amount sufficient to conduct the Board's duties and activities as provided for by this Plan of Operation.

J. Replacement of non-serving members. Should any member cease to serve for any reason, the Board shall declare such member's position vacant and

notify the affected Chapter, President or Speaker, as appropriate, of the need for a new appointment to fill such vacancy. Such newly appointed member shall not officially begin his or her term on the Board until confirmed and administered the oath as provided for in Section 903(B) herein.

K. Removal of members. Any Board member who misses two consecutive meetings without just cause may be removed by a majority vote of the Board. Any of the five Chapters represented on the Board, or the President, may recommend to the Board that their respective appointed member be removed, and the Board may remove such member by a majority vote. Such removal shall become effective on the date of such Board action and the Board shall immediately declare a vacancy and notify the affected Chapter, President or Speaker, as appropriate, of the need for a new appointment to fill such vacancy. A newly appointed member shall not officially begin his or her term on the Board until confirmed and administered the oath as provided for in Section 903(B) herein.

### **History**

IGRM-115-08, May 19, 2008. Amended quorum requirement at Subsection E.

GSCJN-12-06, June 27, 2006.

ACS-178-89, September 26, 1989. Amended generally.

ACN-143-82, Plan, § 11, November 10, 1982.

### **§ 904. Board employees and offices**

#### **A. Board Employees.**

1. Community Liaison. The Navajo Nation shall employ one person to serve as Community Liaison for the Board. His or her duties shall include, but not be limited to, coordinating and scheduling Board meetings, keeping all minutes of Board meetings and supervising the execution and transmission of all correspondence, agreements, communications and other documents for the Board. The Community Liaison shall be employed pursuant to the Navajo Nation Personnel Policies. The Community Liaison shall not serve as a Board member while employed as Community Liaison. The Community Liaison shall be subject to annual performance evaluations as prescribed for Navajo Nation employees. The Board Chairperson shall have supervisory authority over the Community Liaison.

2. Investigator. To assist the Board in its determination of economic loss suffered by Navajo families, the Board shall utilize one or more available investigators from the Office of Navajo Land Administration and/or the Navajo Nation Minerals Department who shall submit to the Board reports concerning the economic loss suffered by individual Navajos as a result of the mining activities.

a. The investigator shall be qualified and experienced in evaluating economic loss; and if necessary the investigator may be assisted by an interpreter.

b. Compensation.

(1) The investigator(s) shall be compensated by the Department in which he or she is employed.

(2) In addition, the investigator shall perform his or her duties for the Board as part of a regular business day, and shall receive reimbursement for actual expenses at the rate generally paid Navajo Nation employees.

3. Other assistance. The Board may request clerical assistance from the Navajo Nation to prepare reports, correspondence and handle other communications between the Board, PWCC, claimants, the investigators, etc.

B. Offices. The Board shall utilize the Division of Natural Resources and/or Department of Justice of the Navajo Nation to assist it in processing claims, preparing correspondence, and handling all communications on behalf of the Board.

### **History**

GSCJN-12-06, June 27, 2006. Amended and renumbered previous § 905.

ACS-178-89, September 26, 1989. Amended generally.

ACN-143-82, Plan, § IV, November 10, 1982.

**Note.** Previous § 904, Jurisdiction, deleted by GSCJN-12-06, June 27, 2006.

### **§ 905. Duties of the Board**

A. Within 60 days of the adoption of this amendment to the Board's Plan of Operation, the Board shall adopt procedures for the filing of a complaint by any Navajo Nation member claiming to be adversely affected by PWCC's lease activities.

B. Upon the receipt by the Board of a complaint filed in accordance with procedures adopted by the Board, the Board shall cause the investigator provided for in Subsection 904(A)(2) herein to investigate all elements of the complaint and report back to the Board within 30 days of the filing of the complaint. The investigator shall mail copies of the report to all members of the Board, as well as to the claimant or representative thereof and PWCC. The report of the investigator shall state the extent and amount of economic loss or harm suffered by the claimant as well as a specific description of property or properties involved and the date(s) of such loss or harm.

C. Within 30 days after the receipt by the Board of the investigator's report, either the claimant or PWCC may file a demand with the Board for a hearing on the claim. If no such request is filed with the Board within 30 days after copies of the investigator's report have been mailed to the claimant and PWCC, the Board shall enter judgment for the claimant in the amount recommended in the investigator's report.



D. If either PWCC or the claimant timely files an objection or request for hearing with the Board, the Chairperson of the Board shall schedule a hearing within 30 days of the date the first such objection or request is filed (to be held at a location as near as practicable to the land in question) and shall immediately notify both PWCC and the claimant of the date of the scheduled hearing. At such hearing, both the claimant and PWCC may present any relevant evidence or such witnesses, regarding the economic loss allegedly suffered, subject to 2 N.N.C. § 907.

E. At the conclusion of the initial hearing, the Board shall make a determination as to the amount of compensation to be paid, if any, and shall issue a Preliminary Determination and submit the same to both PWCC and the claimant. The Preliminary Determination may be made immediately at the conclusion of the initial hearing, or by written notice to the claimant and PWCC within 30 days after the initial hearing. If no appeal pursuant to 2 N.N.C. § 906 is taken by either PWCC or the claimant, PWCC shall pay, in accordance with a duly executed and approved agreement by and between PWCC and the Navajo Nation, the amount of the award set forth in the Preliminary Determination, as follows:

1. Within 15 days of the hearing if the award is made at the hearing;
2. Within 15 days of the date the Board's Preliminary Determination is submitted to PWCC and the claimant; or
3. If the investigator's report is not contested, within 45 days of its mailing to PWCC.

F. Generally: Minimizing Adverse Economic Impact on Mining Affected Families.

1. The Board and/or investigator may, in addition to testimony received with respect to economic loss, take testimony from interested parties as to proposed methods for reducing the adverse economic impact of the mining activities on the Navajo People in the Black Mesa area.
2. The investigator may also make specific recommendations as to procedures and operations to be followed in the individual case investigated, as well as in the general mining operations, so as to minimize the adverse economic impact of the mining activities on Navajo families within the PWCC mining area.
3. The determination of the Board may also include recommendations to PWCC with respect to the individual claimant, or with respect to the general mining operations so as to minimize the adverse economic impact upon the individual claimant or upon Navajos living in the PWCC mining area.

#### **History**

GSCJN-12-06, June 27, 2006. Amended and renumbered previous § 906.

ACS-178-89, September 26, 1989. Amended generally.

ACN-143-82, Plan, § V, November 10, 1982.

**§ 906. Appeal**

A. Within 30 days of the Board's issuance of its Preliminary Determination, either the claimant or PWCC may file a petition for review with the Navajo Nation District Court in the districts of Kayenta or Chinle, Navajo Nation (Arizona). The petition for review shall state why the finding of the Board is clearly erroneous.

B. The proceedings in the Navajo Nation District Court shall proceed as all other civil actions in the Navajo Nation Courts, except that the standard for review shall be that the Board's determination shall be upheld unless it is determined by the Navajo Nation District Court to be clearly erroneous.

**History**

GSCJN-12-06, June 27, 2006. Amended and renumbered previous § 907.

ACS-178-89, September 26, 1989. Amended generally.

ACN-143-82, Plan, § VI, November 10, 1982.

**§ 907. Standards of adjudication**

A. These standards of adjudication shall apply to the determination made by the investigator, the Board and the Navajo Nation District Court.

B. Adverse economic effect shall include but not be limited to the following:

1. Loss or harm to property and improvements to real property;
2. Loss or harm to traditional or customary grazing areas or areas grazed under permit;
3. Increased cost, hardship or inconvenience in the use and enjoyment of real property, grazing permits, or customary use areas;
4. Relocation, moving and other expenses caused or resulting from the mining operations;
5. Detriment to the quality of life as compared with that previously enjoyed by the individual Navajos or Navajo families;
6. In determining costs of relocation, value of structures and intangibles, traditional Navajo values including but not limited to costs of required religious ceremonies shall be considered to be relocation expenses.

C. The Board shall utilize an appraiser to determine the adverse economic effects suffered by any person filing a claim, and any awards shall be based on an amount reflecting fair and just compensation, or fair market value,

whichever is greater. The Board shall enter into agreements with appropriate Navajo Nation programs and departments to utilize the Navajo Nation's resources in obtaining appraisals and determining compensation amounts, as required by this Subsection.

D. Where mining operations allow the Navajo family or families displaced to return to their traditional area, the amount of damages sustained by relocated individuals or families shall take into account the likelihood and possibility of the Navajo individual or family being able to resume the life and lifestyle existing prior to the taking by PWCC.

E. Interest at the prevailing rate from the date the taking is determined to have occurred shall be added to any judgment made pursuant to this Plan of Operation. Where such damage includes the relocation of the claimant, the interest on the amount of such damages attributed to relocation expenses shall commence on the date the family actually relocated.

#### **History**

GSCJN-12-06, June 27, 2006. Amended and renumbered previous § 908.

ACS-178-89, September 26, 1989. Amended generally.

ACN-143-82, Plan, § VII, November 10, 1982.

#### **§ 908. Administration**

A. All costs of administration of the Black Mesa Review Board as well as compensation and expenses of members, investigators, employees, and office expenses shall be paid by the Navajo Nation through available tribal funding; provided that PWCC may assume or reimburse any of these costs if it agrees to do so.

B. The Chairperson of the Board shall file with Financial Services of the Navajo Nation, on a monthly basis, the time spent by the members of the Board at hearings and other activities and a statement of other expenses actually incurred.

C. If applicable, the Navajo Nation shall submit to PWCC, on a quarterly basis, a statement of all Board expenses which shall be paid by PWCC within 30 days or pursuant to such other agreement reached between the Navajo Nation and PWCC.

D. All notices required to be sent pursuant to this Plan of Operation shall, in addition to being sent to the Board members, the claimant or his/her representative and PWCC, also be sent to the secretaries of the Kayenta Chapter, Forest Lake Chapter, Black Mesa Chapter, Shonto Chapter, Chilchinbeto Chapter, the Office of the Speaker, the Attorney General, and the Office of the President of the Navajo Nation.

#### **History**

GSCJN-12-06, June 27, 2006. Amended and renumbered previous § 909.

ACS-178-89, September 26, 1989.

**§ 909. Amendment**

This Plan of Operation may be amended from time to time, upon the recommendation of the Black Mesa Review Board, and subject to approval by the Intergovernmental Relations Committee of the Navajo Nation Council.

**History**

GSCJN-12-06, June 27, 2006. Amended and renumbered previous § 910.

ACS-178-89, September 26, 1989.

[§ 910. Renumbered § 909 by GSCJN-12-06, June 27, 2006]

**Article 6. Navajo Nation Human Rights Commission**

**§ 920. Establishment**

There is hereby established the Navajo Human Rights Commission (herein referred to as the Commission) in the Legislative Branch as an entity of the Navajo Nation government.

**History**

CO-40-06, October 19, 2006. The Navajo Nation Human Rights Commission Act.

**§ 921. Purpose**

The Commission is organized to operate as a clearinghouse entity to administratively address discriminatory actions against citizens of the Navajo Nation, and to interface with the local, state, and federal governments and with national and international human rights organizations in accordance with its plan of operation and applicable laws and regulations of the Navajo Nation.

**History**

CO-40-06, October 19, 2006. The Navajo Nation Human Rights Commission Act.

**Note.** Slightly reworded by insertion of the words "and" before "federal", and "the" before the last reference to "Navajo Nation".

**§ 922. Organization; powers; and office**

A. The Commission shall consist of five commissioners. Qualifications for the commissioners shall include persons with reputable and established backgrounds in the fields of education, business, law enforcement and social services. The commissioners shall be appointed by the Speaker of the Navajo Nation Council and confirmed by the Intergovernmental Relations Committee.

B. Commissioners shall receive no additional compensation for their activities in connection with the Commission, other than reimbursement for required and authorized expenses incurred in the performance of their duties.

C. The Commission shall receive reports of discriminatory and racial acts perpetrated against citizens of the Navajo Nation. The Commission will compile this data and track occurrences of these events and refer documented incidents to the proper authorities, subject to applicable laws.

D. The Commission shall have the authority to approve the rules, policies and procedures for the Commission and its office, to conduct public hearings, and to issue subpoenas, in accordance with the laws of the Navajo Nation. Commissioners shall hire and supervise an Executive Director for the Commission in accordance with the Navajo Nation Personnel Policies Manual.

E. The Executive Director shall administer the daily operations of the Commission through the Office of the Navajo Nation Human Rights Commission. The Executive Director shall be responsible and accountable to the Commission and shall be authorized to employ necessary personnel in accordance with the Navajo Nation Personnel Policies Manual and the Navajo Nation operating budget.

F. The Commission shall coordinate with other Navajo Nation offices, departments, and other governmental entities as necessary to carry out the Commission's purposes and authorities, subject to applicable laws. This Act shall not be construed to diminish the operation of the Navajo Nation Business Opportunity Act, the Navajo Nation Business and Procurement Act, the Navajo Preference in Employment Act, the Navajo Nation Bill of Rights, or any other laws of the Navajo Nation.

#### **History**

CO-40-06, October 19, 2006. The Navajo Nation Human Rights Commission Act.

**Note.** Slightly reworded by insertion of the word "the" before "Navajo Nation Personnel Policies Manual" at Subsection (D).

#### **§ 923. Legislative oversight**

The Commission shall operate under the legislative oversight of the Intergovernmental Relations Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 824(B)(1). The Commission shall operate pursuant to a plan of operation recommended by the Office of the Speaker and adopted by the Navajo Nation Council.

#### **History**

CO-40-06, October 19, 2006. The Navajo Nation Human Rights Commission Act.

#### **§ 924. Amendments**

The enabling legislation for the Commission may be amended by the Navajo Nation Council upon recommendation of the Intergovernmental Relations Committee

of the Navajo Nation Council.

#### **History**

CO-40-06, October 19, 2006. The Navajo Nation Human Rights Commission Act.

#### **[Article 7. Navajo Nation Insurance Commission]**

*A former Article 7 was renumbered from Article 6 and another prior Article 7 was renumbered as Article 8 [now Article 9], pursuant to CO-40-06, October 19, 2006, the Navajo Nation Human Rights Commission Act.*

#### **Article 7. Navajo Nation Green Economy Commission**

##### **§ 925. Establishment**

There is hereby established the Navajo Nation Green Economy Commission ("Commission") in the Legislative Branch of the Navajo Nation government.

#### **History**

CJY-19-09, July 21, 2009. The Navajo Nation Green Economy Commission Act of 2009.

##### **§ 926. Purpose**

The Commission is established to fund "green" businesses, community projects and initiatives on the Navajo Nation. "Green" businesses are defined generally as businesses and industries that contribute to the economy with a minimum or no generation of greenhouse gases and/or with capabilities to counteract the negative effects of greenhouse gases, in accord with Nahasdzáán dóó Yádi[hi] Bits'33d66' Beehaz'áanii, Diné Natural Law, 1 N.N.C. § 205. Heat trapping greenhouse gases prevent heat from escaping the atmosphere, thereby negatively impacting the climate.

#### **History**

CJY-19-09, July 21, 2009. The Navajo Nation Green Economy Commission Act of 2009.

##### **§ 927. Authorities and powers**

The Commission shall have the authorities and powers:

A. To approve the rules, policies and procedures for the Commission and its office in accordance with the laws of the Navajo Nation.

B. To establish guidelines based on "green" criteria for allocating Navajo Nation Green Economy Funds (Guidelines) to be used in evaluation and ranking the green proposals submitted for funding. The Commission may amend the Guidelines, as needed.

C. To hire a Director for the Navajo Nation Green Economy Commission.

D. To seek appropriate federal, state and other funding for the Navajo Nation Green Economy Fund ("Fund").

E. To oversee the allocation of the Fund based on the Guidelines by reviewing Requests for Proposals for the Fund and selecting winning proposals to be funded by the Fund.

F. To oversee the investments of the Fund.

G. To promote and educate the Navajo public, private and government sectors about green economy opportunities.

H. To promote a long-term and sustainable Navajo Nation green economy.

I. To network with local, state, national and international groups to advocate and build Navajo Nation green economy strategies.

J. To provide oversight and accountability for the Navajo Nation Green Economy Commission Office Director.

### **History**

CJY-19-09, July 21, 2009. The Navajo Nation Green Economy Commission Act of 2009.

### **§ 928. Organization and personnel**

A. Organization.

1. The Commission shall consist of five commissioners.

2. Commissioners shall include persons with extensive knowledge of green economics, with reputable and established backgrounds in such fields as business, economics, environmental science, health, construction, agriculture, traditional Navajo culture, Navajo community development, and tribal, state and federal government operations. The Commission shall include a diverse representation of the Navajo Nation and shall include the following: a Navajo Non-Governmental Organization representative, a youth representative (18 to 30 year old), and at least two female commissioners.

3. The Commissioners shall be appointed by the Speaker of the Navajo Nation Council and confirmed by the Intergovernmental Relations Committee. Commissioners will serve staggered terms. Of the first Commission, three will serve for two years, three will serve for three years and one will serve a four year term. Thereafter, all commissioners will serve four year terms or until the Speaker appoints a replacement for an expired term.

4. All commissioners shall be enrolled members of the Navajo Nation.

5. Commissioners shall not be paid for their service other than to be reimbursed for required and authorized expenses incurred in performance of their duties.

**B. Personnel.**

1. The Commission shall hire and supervise a Director for the Commission Office in accordance with the Navajo Nation Personnel Policies Manual.

2. The Director shall administer the daily operations of the Commission through the Navajo Nation Green Economy Commission Office. The Director shall be responsible and accountable to the Commission and shall be authorized to employ necessary personnel in accordance with the Commission's plan of operation, the Navajo Nation Personnel Policies Manual and the Navajo Nation operating budget.

**History**

CJY-19-09, July 21, 2009. The Navajo Nation Green Economy Commission Act of 2009.

**§ 929. Legislative oversight**

The Commission shall operate under the legislative oversight of the Intergovernmental Relations Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 824(B)(1). The Commission's plan of operation shall be recommended by the Commission and approved by the Intergovernmental Relations Committee. Subsequent amendments to the plan of operation shall be approved by the Intergovernmental Relations Committee.

**History**

CJY-19-09, July 21, 2009. The Navajo Nation Green Economy Commission Act of 2009.

**§ 930. Amendments**

A. This enabling legislation for the Navajo Nation Green Economy Commission shall be amended upon the recommendation of the Commission and approved by the Navajo Nation Council.

B. A plan of operation for the Navajo Nation Green Economy Commission shall be approved and amended by the Intergovernmental Relations Committee.

**History**

CJY-19-09, July 21, 2009. The Navajo Nation Green Economy Commission Act of 2009.

**[Article 8. Employees Advisory Board]**



*A former Article 8 was renumbered from Article 7, pursuant to CO-40-06, October 19, 2006, the Navajo Nation Human Rights Commission Act. See, now, Article 9.*

## **Article 8. Navajo Nation Insurance Commission**

### **§ 931. Establishment**

The Navajo Nation Insurance Commission is hereby established and continued as the Navajo Nation Insurance Commission within the Legislative Branch.

#### **History**

CD-68-89, December 15, 1989. The Commission was specifically placed within the Legislative Branch.

ACAP-49-82, April 16, 1982.

### **§ 932. Purposes**

The purpose of the Commission shall be to insure accurate insurance coverage and protection for the Navajo Nation, its entities, employees, and property.

#### **History**

CD-68-89, December 15, 1989.

### **§ 933. Powers**

A. Subject to approval of the Government Services Committee and the Budget and Finance Committee of the Navajo Nation Council, the Navajo Nation Insurance Commission shall have the sole authority to review, determine, select and coordinate all insurance coverage and programs pertaining to the Navajo Nation, including all offices, divisions, departments, entities, programs, interests, property and employees, with any private or public carriers, plans or organizations and together with all self-insured programs or combined coinsured programs. Said programs may, without limitation, include the following coverages, together with any other insurance programs selected, reviewed or administered under the jurisdiction of the Navajo Nation Insurance Commission:

1. General, automobile, and excess liability insurance.
2. Building, personal property, equipment systems, machinery and vehicle physical damage insurance.
3. Health, life and accident, disability and income protection insurance.
4. Key man life insurance.

5. Blanket employee crime coverage.

6. Performance, fidelity, surety and other bonding.

7. Workmen's compensation and all other self-insured or co-insured programs.

B. To review and determine all policy or program premium and/or rate making obligations and to provide orderly procedures for payment of premiums for bonding and insurance obligations, and to establish appropriate reserves for self and coinsured programs, with appropriate apportionment of such obligations among the insured entities and parties for which coverage is provided.

C. To direct, supervise and review the administration and implementation of all insurance programs by the Insurance Services Department, together with all determinations of any review boards or committees established to administer any Navajo Nation Insurance program and to review, evaluate, determine or make recommendations pertaining to all claims made under such programs.

D. To report annually or as deemed necessary to the Budget and Finance Committee of the Navajo Nation Council at its budget session on the insurance coverages, and on the status of all pertinent fiscal, premium, revolving, special, operational and reserve accounts.

E. To recommend to the Navajo Nation Council the adoption of legislation appropriate to strengthen and protect the operations of the Navajo Nation, its entities, employees and property.

F. To establish and administer appropriate means for review, evaluation and recommendation for the disposition and settlement of all claims of liability pertaining to the Navajo Nation, its entities or employees acting within the scope of their employment, to the extent such disposition involves the expenditure of funds (whether within self-insured, coinsured, deductible or reimbursable insurance or other liability coverage); and to award damages from funds appropriated by the Navajo Nation Council for indemnification of such liability as determined by the Navajo Nation Insurance Commission.

G. To authorize or conduct appropriate investigation for determination of liability and evaluation of claims involving payment or reimbursement of funds in accordance with the above described purposes.

#### **History**

CD-68-89, December 15, 1989. Section 932 redesignated as § 933, and amended generally.

ACAP-49-82, April 16, 1982.

#### **§ 934. Membership; Chairperson and Vice-Chairperson; quorum; advisors; Review Boards and Committees**

A. Membership. The Commission shall consist of the following members.

1. Director of Office of Personnel Management;
2. The Senior Administrative Service Officer in the Office of the Speaker of the Navajo Nation Council;
3. A representative of the Navajo Nation enterprises selected by consensus among the enterprises participating in the Navajo Nation insurance program; and
4. A permanent employee of the Navajo Nation government selected at large by the employees for a term of four years. The election of the employee representative shall be conducted by the Office of Personnel Management.

B. The Chairperson and Vice-Chairperson shall be selected by the Commission.

C. At any meeting, a quorum shall consist of three members.

D. Advisors. Representatives of the Attorney General, Controller, Auditor General, Office of Contracts and Grants, all divisions and departments and duly chartered enterprises of the Navajo Nation are official advisors to the Commission and shall provide appropriate support, advice and counsel on substantial matters. The Risk Management Department shall provide staff assistance to the Committee.

E. Review Boards and Committees. Review boards and committees may be constituted, appointed and delegated review and administrative duties herein under the auspices of the Insurance Commission for such approved insurance programs including but not limited to the following:

1. Liability Claims Review Board.
2. Property and Casualty Insurance Review Board.
3. Key Man Insurance Review Board.
4. Employee Benefits Review Board.
5. Community, commercial and claims Arbitration boards.

#### **History**

CD-68-89, December 15, 1989. § 933 redesignated as § 934, and amended generally.

ACAP-49-82, April 16, 1982.

**Note.** "Contract Office" changed to "Office of Contracts and Grants."

#### **§ 935. Procedures**

A. On or before January 25 of each year, the Insurance Commission of the

Navajo Nation shall meet to determine:

1. The insurance coverages to be in effect during the forthcoming fiscal year.
2. The premiums to be incurred for such coverages.
3. The sums which shall be necessary to meet deductible or coinsurance features with respect to such coverage.
4. The appropriate apportionment of such premiums and deductible and coinsurance rates, among the Navajo Nation and its enterprises.

B. Following this meeting and on or before February 15 of each year, the Insurance Commission shall meet with the appropriate representatives of each enterprise participating in the Insurance Programs of the Navajo Nation, the Director, Division of Finance (or his/her representative) and the Director, Risk Management Department (or his/her representative) and the Controller of the Navajo Nation to:

1. Discuss insurance programs for the forthcoming fiscal year.
2. Discuss the apportionment, or premiums, deductible and co-insurance rates and present invoices for the respective entities.
3. Discuss risk management for the enterprises and the Navajo Nation.

C. Premiums deductible and coinsurance shall be paid within 30 days of receipt of approved invoice.

D. All such funds received from the Navajo Nation and its enterprises shall be placed in and administered on a revolving account basis. Appropriate procedures shall be used to identify the payer and the type of coverage for each payment.

E. The Insurance Commission shall cause payment for appropriate revolving accounts, premiums, bills and payments to divisions of the Navajo Nation and enterprises which suffer losses which are not fully paid by the carriers because of deductible and coinsurance requirements, as deemed appropriate.

F. On or before April 1 of each fiscal year, the Insurance Commission shall convene to review the status of these revolving accounts. A representative of the Director, Division of Finance and the Risk Management Department shall also be in attendance. This meeting shall determine:

1. If the payments due from the Navajo Nation and its enterprises have been made.
2. If account balances are adequate to meet premium and other obligations for the balance of the fiscal year.
3. Any risk management question which may be appropriate.

4. In the event that any balance is inadequate, the amount(s) necessary to carry the program through the balance of the fiscal year and its appropriate share of the additional funds needed for the program.

G. In the event that there is a surplus of funds in the premium contribution account at the end of any fiscal year (as determined by the Insurance Commission), the contributions of the Navajo Nation and the enterprises shall be reduced in the following fiscal year by the amount of such surplus.

#### **History**

CD-68-89, December 15, 1989. § 934 redesignated as § 935, and generally amended.

ACAP-49-82, April 16, 1982.

#### **§ 936. Compensation**

The members of the Insurance Commission shall receive no additional compensation for their activities in connection with the Insurance Commission, other than reimbursement for required and authorized expenses incurred in the performance of their duties and shall assume their responsibilities in addition to their other responsibilities as employees of the Navajo Nation or its entity.

#### **History**

CD-68-89, December 15, 1989. § 935 redesigned as § 936.

ACAP-49-82, April 16, 1982.

### **Article 9. Employees Advisory Board**

#### **§ 941. Establishment**

As directed by Navajo Nation Council Resolution CMY-37-90 authorizing the planning and design of a Plan of Operation for an Employees Advisory Committee, there is hereby established the Navajo Nation Employees Advisory Board ("Board") located within the Legislative Branch of the Navajo Nation government. Principal legislative oversight shall be provided by the Human Services Committee of the Navajo Nation Council.

#### **History**

CO-59-90, October 18, 1990.

CMY-37-90, May 8, 1990.

CO-59-90, October 18, 1990. Adopted the Plan of Operation for the Employees Advisory Board.

## **§ 942. Purpose**

The principal purpose of the Board is to serve as an official vehicle and forum through and by which Navajo Nation employees may express and address concerns and problems regarding their employment, consider solutions, and propose recommendations to the Navajo Nation government. Further, when an employee expresses or addresses a concern before the Board there shall be no retaliation against the employee by supervisors or others. The Board shall be given notice and the opportunity to review and make comments and recommendations on any proposed law, policy, or regulation affecting Navajo Nation employees. The Board shall not, however, act in any manner to bypass, circumvent, or attempt to defeat the Personnel Policies and Procedures or other relevant laws and policies.

### **History**

CD-59-90, October 18, 1990.

CMY-37-90, May 8, 1990.

## **§ 943. Organization and membership**

A. Administrative support to the Board shall be provided by the Division of Human Resources and the Personnel Management Department and, as appropriate, the Personnel Office of the Legislative Branch.

B. Membership.

1. Official and voting members of the Board shall be as follows:

- a. One representative from each tribal division; and
- b. One representative from the collective programs and offices comprising Executive Offices; and
- c. One representative from the Legislative Branch.

2. As regular salaried employees, all members shall serve without additional compensation.

C. Selection.

1. Representatives shall be permanent status employees who shall be elected by majority vote of their fellow permanent employees in an election to be held every two years during the fourth week in October. Election rules and regulations shall be formulated and promulgated by the Board and elections shall be conducted by the Personnel Management Department.

2. The Board shall elect a Chairperson and Vice-Chairperson to lead the Board in the conduct of official activities.

D. Term of Office.

Representatives shall normally serve a two-year term. Should a representative leave employment, transfer to another division, or resign from the Board, a vacancy shall be declared and a special election shall be conducted within 30 days to elect a new representative.

#### **History**

CO-59-90, October 18, 1990.

CMY-37-90, May 8, 1990.

**Note.** Reference to an organizational chart at Subsection (A) was deleted as such charts are generally not codified.

**Note.** Reformatted for purposes of statutory form.

#### **§ 944. Powers and authority**

Specific duties, functions and responsibilities shall be as follows:

A. Those powers necessary to properly carry out the purposes set forth herein;

B. Conduct periodic meetings to hear and respond to stated personnel concerns, problems, and recommendations of Navajo Nation employees;

C. Request and receive appropriate reports and information from Navajo Nation offices in order to review, study, and consider resolution to problems, concerns, and propose recommendations;

D. Formulate recommendations and proposed solutions to stated employee concerns and problems to appropriate offices of the Navajo Nation government; and,

E. Recommend upon subjects including, but not limited to, personnel policies, procedures, and programs, working conditions, health and safety, employee training, and employee benefits and services.

#### **History**

CO-59-90, October 18, 1990.

CMY-37-90, May 8, 1990.

#### **§ 945. Meetings and reports**

A. Meetings. Meetings shall normally be held on the fourth Friday of each month. Special meetings may be held upon written request of the majority of the Board membership. All meetings shall be publicized at least 24 hours in advance. At any meeting, a quorum is required and shall consist of a simple majority of the seated members. All meetings shall be open to the public and Navajo Nation employees except where confidential material is to be presented. Leave with pay shall be authorized to the Board members when attending Board meetings. Further, as far as possible, any travel expenses of members shall be

borne by budget accounts of the members' respective program, department, or division.

B. Reports. The Board shall provide a quarterly report to the Office of the President, Office of the Speaker, and the Human Services Committee of the Navajo Nation Council.

#### **History**

CO-59-90, October 18, 1990.

CMY-37-90, May 8, 1990.

#### **§ 946. Amendments**

Sections 941 through 945 may be amended from time to time as deemed appropriate by the Government Services Committee of the Navajo Nation Council, upon recommendation of the Human Services Committee.

#### **History**

CO-59-90, October 18, 1990.

CMY-37-90, May 8, 1990.

### **Subchapter 12. Legislative Offices**

#### **Cross References**

**Note.** See 12 N.N.C. §§ 1-7 for establishment of the Office of Auditor General under the Navajo Nation Council.

### **Article 1. Office of Legislative Services**

#### **§ 951. Establishment**

The Office of Legislative Services is established within the Legislative Branch.

#### **History**

CD-68-89, December 15, 1989; redesignated 2 N.N.C. § 1051 as "§ 951".

ACJN-77-84, June 15, 1984.

#### **§ 952. Purpose**

The Office of Legislative Services shall provide complete and full range of professional, technical and administrative support services to the Navajo Nation Council, Standing Committees of the Navajo Nation Council, unstaffed Commissions, Task Forces or Boards of the Navajo Nation Council, Council Delegates and the certified Chapters of the Navajo Nation.



### **History**

CD-68-89, December 15, 1989; redesignated 2 N.N.C. "\$ 1052" as "\$ 952".

ACJN-77-84, June 15, 1984.

### **§ 953. Director**

A. The Office of Legislative Services shall be headed by a Director, who shall be recommended for appointment by the Speaker in consultation with the Intergovernmental Relations Committee and subsequently confirmed by the Navajo Nation Council. The Director will be administratively responsible to the Speaker and serve at the pleasure of the Intergovernmental Relations Committee of the Navajo Nation Council. The Director will be responsible for program planning and administration, staff, guidance, direction and general supervision, budget preparation, implementation, management and control, and property and facilities coordination and management within the Office of Legislative Services.

B. The Director shall faithfully and diligently execute all duties and authorities delegated by law.

### **History**

CD-68-89, December 15, 1989; redesignated 2 N.N.C. "\$ 1053" as "\$ 953".

ACJN-77-84, June 15, 1984.

### **§ 954. Organization and functions**

The Director shall establish an organizational structure which will provide for the following primary organizational functions within the Legislative Branch:

A. General Services, which shall include processing of payroll and budget expenditures for travel, supplies, equipment, etc., personnel administration and management, property and facilities coordination and management;

B. Reporting and Clerical Services, which shall include recording meetings, transcription and maintenance of Council and standing committee meetings and resolutions, minutes, resolution processing, agenda preparation and provision of secretarial services to Council Delegates.

C. Legislative Research, which shall include researching for preparation of Council and Committee legislation, drafting of legislation, monitoring and analysis of pending legislation, and providing technical assistance (including English to Navajo and Navajo to English interpretation) in resolution processing and discussion, and coordination with various council delegates, Navajo Nation programs, departments, divisions on proposed, pending and approved legislation. In addition, this organizational unit shall perform various intergovernmental relations functions, which shall include monitoring of federal, state and other legislative actions, providing of periodic reports on these matters to the appropriate standing committees, Navajo Nation offices and officials, and the full Navajo Nation Council.

D. Support services to the Office of Legislative Counsel.

**History**

CD-68-89, December 15, 1989; redesignated 2 N.N.C. "\$ 1054" as "\$ 954", and all former provisions were deleted.

ACJN-77-84, June 15, 1984.

**Article 2. Office of Legislative Counsel**

**§ 960. Establishment**

The Office of Legislative Counsel is established within the Legislative Branch of the Navajo Nation government.

**History**

CD-68-89, December 15, 1989.

CF-3-89, February 17, 1989.

**§ 961. Purpose**

The purpose of the Office of Legislative Counsel is to provide legal advice and legislative services to the Navajo Nation Council, standing committees, commissions and boards of the Navajo Nation Council, independent of the Department of Justice.

**History**

CD-68-89, December 15, 1989.

**§ 962. Legislative and administrative oversight**

A. The Office of Legislative Counsel shall be directly accountable to the Navajo Nation Council for all legal and legislative assignments and activities of the Office.

B. The Intergovernmental Relations Committee of the Navajo Nation Council shall exercise legislative oversight over the Office on behalf of the Navajo Nation Council.

C. Day to day administrative and operational matters, such as time and attendance, travel authorizations, expenditure requests, and provision of office space and equipment shall be coordinated through the Speaker of the Navajo Nation Council.

**History**

CD-68-89, December 15, 1989.

## **§ 963. Personnel**

A. There is hereby established the position of Chief Legislative Counsel, who shall be a state-licensed attorney, appointed by the Navajo Nation Council upon recommendation of the Intergovernmental Relations Committee of the Navajo Nation Council. The Chief Legislative Counsel shall serve at the pleasure of the Navajo Nation Council at a negotiated salary. The appointment shall be effective upon the approval of the Navajo Nation Council. The Chief Legislative Counsel shall not be allowed to engage in the private practice of law.

B. A state-licensed attorney or firm, selected in accordance with Navajo preference laws, may be hired as the Chief Legislative Counsel under a contract. Such contract shall not exceed one year and shall be approved by the Navajo Nation Council upon recommendation of the Intergovernmental Relations and the Budget and Finance Committees of the Navajo Nation Council. Such attorney contract shall require the training of a qualified Navajo replacement within the term of the contract.

C. A non-Navajo licensed attorney may be hired only if a licensed Navajo attorney cannot be found to fill the position of Chief Legislative Counsel.

D. All other personnel shall be hired and compensated pursuant to usual Navajo Nation policies and procedures. The Chief Legislative Counsel shall be responsible for the selection and supervision of personnel.

### **History**

CD-68-89, December 15, 1989.

## **§ 964. Authorities, duties and responsibilities**

A. General authorities, duties and responsibilities of the Office of Legislative Counsel shall include:

1. Report and be responsible to the Navajo Nation Council and to the Intergovernmental Relations Committee of the Navajo Nation Council.

2. Coordinate with the Department of Justice and other attorneys providing legal services to the Navajo Nation the work of the Legislative Counsel to avoid duplication of work and conflicting legal advice and opinion.

3. Develop an annual work plan and budget for the office for consideration by the Navajo Nation Council during the regular annual budget process.

4. To advise the Navajo Nation Council on legislative matters pending before the Navajo Nation Council.

5. To advise standing committees, commissions, and boards of the Navajo Nation Council on legislative matters pending before the respective committees, commissions or boards.

6. To assist members of the Navajo Nation Council in preparing proposed resolutions for consideration by Chapters, committees, commissions, boards or the Navajo Nation Council.

7. Perform all duties and responsibilities in accordance with the highest standards of legal ethics.

**B. Codification of Navajo Nation Laws, Rules and Regulations:**

1. The Legislative Counsel shall periodically review all legislation of the Navajo Nation Council and standing Committees of the Navajo Nation Council to determine codification within the Navajo Nation Code.

2. The Legislative Counsel shall periodically prepare and publish new, revised and updated hard-bound versions of the Navajo Nation Code.

3. The Legislative Counsel shall periodically review and evaluate the Navajo Nation Code and recommend appropriate actions to repeal, supersede, clarify and generally update provisions of the Navajo Nation Code for consideration by the appropriate standing committees of the Navajo Nation Council.

**History**

CD-68-89, December 15, 1989.

**Article 3. Office of Navajo Government Development**

**§ 970. Establishment**

The Office of Navajo Government Development is established within the Legislative Branch. The Office is created by the Navajo Nation Council to work under the direction of the Speaker to accomplish the Council's project of instituting reforms necessary to ensure an accountable and responsible government. The Office shall be responsible directly to the Speaker with respect to its overall activities. The Intergovernmental Relations Committee of the Navajo Nation Council shall have legislative oversight authority.

**History**

CD-47-07, December 19, 2007. Overrode Presidential veto of CO-37-07, October 16, 2007. The Navajo Government Development Act.

CO-37-07, October 16, 2007. The Navajo Government Development Act performed an omnibus amendment of the Office of Navajo Government Development.

CD-68-89, December 15, 1989.

**§ 971. Purposes**

The purposes of the Office of Navajo Government Development shall be as follows:

A. To review and evaluate all aspects of the existing government structure of the Navajo Nation including laws, rules and regulations, practices, functions, goals and objectives of the Navajo Nation government, which includes the central government, chapters, townships and local communities.

B. To develop recommendations and proposals for government reform and alternative forms of Navajo Nation government.

#### **History**

CD-47-07, December 19, 2007. Overrode Presidential veto of CO-37-07, October 16, 2007. The Navajo Government Development Act.

CO-37-07, October 16, 2007. Amended the purposes of the Office of Navajo Government Development.

CJY-65-94, July 22, 1994.

CD-68-89, December 15, 1989.

#### **§ 972. [Reserved]**

#### **History**

CD-47-07, December 19, 2007. Overrode Presidential veto of CO-37-07, October 16, 2007. The Navajo Government Development Act.

CO-37-07, October 16, 2007. Eliminated the Commission on Navajo Government Development.

CJY-65-94, July 22, 1994.

CD-68-89, December 15, 1989.

#### **§ 973. Personnel**

A. The Office shall be administered by an Executive Director who shall be appointed by the Speaker of the Navajo Nation Council and confirmed by the Navajo Nation Council. The Executive Director shall serve at the pleasure of the Intergovernmental Relations Committee.

B. The Executive Director shall have the following duties and responsibilities:

1. To develop a series of recommendations and proposals for alternative forms of Chapter government.

2. To provide short and long range comprehensive planning, evaluation and development appropriate to further enhance a Navajo Government that will perpetually accommodate the Navajo People.

3. To review, evaluate, and recommend laws, rules and regulations

including those of agencies, boards and commissions in order to develop a comprehensive system of Navajo government for the Navajo People.

4. To collect, assemble, evaluate, interpret and distribute information, data statistics and evidence which accurately describes the present Navajo government.

5. To conduct hearings on government reform, and to receive recommendations from the public, private and public organizations, Chapters, traditional Navajo leaders, and Native ceremonial practitioners (medicinemen). The Office shall give due consideration to traditional values and philosophical views of the Navajo People.

6. To encourage appropriate educational curricula designed to educate students and the general public on the governmental development of the Navajo Nation.

7. To develop reports to be transmitted to the Speaker of the Navajo Nation Council, Intergovernmental Relations Committee and to the Navajo Nation Council on the activities of the Office, including quarterly reports on the implementation of its recommendations.

8. To develop the Office budget and formulate administrative and operating policies of the Office.

9. To hire and supervise support staff and consultants in accordance with Navajo Nation law, regulations, and procedures.

10. To exercise supervisory control and direction over the day-to-day operation of the Office.

11. To represent the Office in executive level planning.

12. To delegate authority to members of the staff.

13. To perform other duties as directed by the Speaker of the Navajo Nation Council.

#### **History**

CD-47-07, December 19, 2007. Overrode Presidential veto of CO-37-07, October 16, 2007. The Navajo Government Development Act.

CO-37-07, October 16, 2007. Amended the authorities of the Executive Director.

CJY-65-94, July 22, 1994.

CD-68-89, December 15, 1989.

**§ 974. [Reserved]**

#### **History**

CD-47-07, December 19, 2007. Overrode Presidential veto of CO-37-07, October

16, 2007. The Navajo Government Development Act.

CO-37-07, October 16, 2007. Eliminated meetings of the Commission on Navajo Government Development.

CJY-65-94, July 22, 1994.

CD-68-89, December 15, 1989.

**§ 975. [Reserved]**

**History**

CD-47-07, December 19, 2007. Overrode Presidential veto of CO-37-07, October 16, 2007. The Navajo Government Development Act.

CO-37-07, October 16, 2007. Eliminated subcommittees of the Commission on Navajo Government Development.

CJY-65-94, July 22, 1994.

CD-68-89, December 15, 1989.

**§ 976. Amendments**

Sections 970 through 976 herein may be amended from time to time by the Navajo Nation Council upon recommendation of the Intergovernmental Relations Committee of the Navajo Nation Council.

**History**

CD-47-07, December 19, 2007. Overrode Presidential veto of CO-37-07, October 16, 2007. The Navajo Government Development Act.

CO-37-07, October 16, 2007. Changed the manner by which the enabling legislation for the Office of Navajo Government Development is to be amended.

CJY-65-94, July 22, 1994.

CD-68-89, December 15, 1989.

**§ 977. Office; staff, duties and accountability**

A. The staff is accountable and reports to the Director. The staff is hired and subject to the Navajo Nation Personnel Policies and Procedures.

B. The duties of staff are as follows:

1. To provide a full range of administrative and support services to the Commission.

2. To act as resource persons for the Commission.

3. To collect information and maintain central files of all

information, data, statistics and research materials.

4. To assist in preparing for Commission meetings by collecting and confirming information, notifying interested parties and preparation of materials necessary to conduct meetings.

5. To assist in the coordination of scheduling of Commission and subcommittee meetings and activities.

6. Perform other duties as directed by the Director.

7. The Office of Navajo Government Development shall be authorized to procure necessary supplies, services, equipment, furniture, and make contracts as authorized from time to time through the Navajo Nation budget process.

#### **History**

CJY-65-94, July 22, 1994.

CD-68-89, December 15, 1989.

#### **§ 978. Amendments**

Sections 970-977 herein may be amended by the Navajo Nation Council upon recommendation of the Intergovernmental Relations Committee and the Commission on Navajo Government Development.

#### **History**

CJY-65-94, July 22, 1994.

CD-68-89, December 15, 1989.

**Note.** "Sections 970-977 herein" substituted for the words "The Sections hereof" for clarity and grammar.

#### **Article 4. [Reserved]**

#### **Article 5. [Repealed]**

### **Chapter 5. Executive Branch**

#### **Subchapter 1. Generally**

#### **Article 1. Office of the President and Vice-President**

#### **§ 1001. Executive Branch establishment**

There is established the Executive Branch of the Navajo Nation government. The branch shall consist of such divisions, departments, offices, or programs as may be established by law.



### **History**

CD-68-89, December 15, 1989.

#### **§ 1002. Office of President and Vice-President; term**

- A. There is established the Office of President and Vice-President.
- B. There shall be one President of the Navajo Nation.
- C. The President shall be elected for a term of four years.
- D. The President shall serve no more than two terms.

### **History**

CD-68-89, December 15, 1989.

CS-31-54, September 3, 1954.

Rules governing Tribal Council, July 1938, Ch. 111, § 1, 1954 Res. p. 196.

#### **§ 1003. Vice-President**

- A. There shall be one Vice-President of the Navajo Nation.
- B. He/she shall be elected for a term of four years.
- C. The Vice-President shall serve no more than two terms.

### **History**

CD-68-89, December 15, 1989.

CJA-1-63, January 10, 1963.

Rules governing Tribal Council, July 1938, Ch. 111, §§ 4-5, 1954 Res. p. 196.

#### **§ 1004. Qualifications**

A. No person shall serve as President or as Vice-President of the Navajo Nation unless he/she is an enrolled member of the Navajo Nation, 30 years old or older.

B. No person shall serve as President or Vice-President of the Navajo Nation unless he/she has continually, during the last three years before the time of election been physically present within the Navajo Nation. The "Navajo Nation" is defined at 7 N.N.C. § 254.

### **History**

CD-68-89, December 15, 1989. Rules governing Tribal Council, July 1938, Ch. 111, §§ 7-8, 1954 Res. pp. 196-198.

## **Cross References**

Navajo Nation Election Code, see 11 N.N.C. § 1, *et seq.*

### **§ 1005. Powers and duties**

A. The President of the Navajo Nation shall serve as the Chief Executive Officer of the Executive Branch of the Navajo Nation government with full authority to conduct, supervise, and coordinate personnel and programs of the Navajo Nation. He/she shall have fiduciary responsibility for the proper and efficient operation of all Executive Branch offices.

B. The President shall represent the Navajo Nation in relations with governmental and private agencies and create favorable public opinion and good will toward the Navajo Nation.

C. The President shall have the following enumerated powers:

1. Faithfully execute and enforce the laws of the Navajo Nation.
2. Negotiate and execute contracts subject to applicable laws.
3. Appoint supervisory executive personnel subject to applicable laws.
4. Appoint members of boards, commissions, and other entities subject applicable laws.
5. Report quarterly to the Navajo Nation Council on the state of the Navajo Nation.
6. Recommend to the Budget and Finance Committee an annual operating budget or amendments thereof for the Executive Branch and advise the Navajo Nation Council on the annual budget recommended by the Budget and Finance Committee.
7. Recommend to the Navajo Nation Council supplemental appropriations for the Executive Branch.
8. Recommend legislation, rules or regulations to the Navajo Nation Council or its Committees.
9. Exercise such powers as may be lawfully delegated to the Office of the President of the Navajo Nation.
10. Sign legislation passed by the Navajo Nation Council into Navajo law within ten calendar days after the certification of the legislation by the Speaker or Speaker Pro Tem.
11. Veto legislation passed by the Navajo Nation Council subject to an override of the veto by two-thirds (2/3) vote of the membership of the Navajo Nation Council. The veto shall be exercised by the President by a letter to the Speaker specifying the reasons for the veto. The President's veto shall not be subject to an override by the Navajo Nation

Council after the end of the next regular session of the Navajo Nation Council following the session in which the legislation was first passed by the Council.

12. The President's authority to sign into law or veto legislation shall be deemed to be waived if not exercised within ten calendar days after certification of the legislation by the Speaker or Speaker Pro Tem and the legislation shall be deemed enacted and become effective pursuant to 2 N.N.C. § 221.

13. Speak and act for the Navajo Nation on any and all matters relating to the Navajo-Hopi land dispute subject to applicable laws.

14. Issue executive orders for the purpose of interpreting, implementing or giving administrative effect to statutes of the Navajo Nation in the manner set forth in such statutes. Executive orders shall have the force of law upon the recipient.

D. The Vice-President of the Navajo Nation, during the absence of the President, shall exercise the powers and execute the duties of the President of the Navajo Nation.

#### **History**

CAU-48-03, August 29, 2003, Overrode Presidential Veto of CJY-32-03.

CJY-32-03, July 22, 2003. Added Subsections B(10), (12) and (14). Amended Subsection B(11) and Renumbered within Subsection B.

GSCF-10-91, January 9, 1991. Added Subsection (C) (11).

CD-68-89, December 15, 1989.

CAU-50-59, August 6, 1959.

CJ-13-53, January 6, 1953.

Rules governing Tribal Council, July 1938, Ch. 111, §§ 3-6, 1954 Res. p. 196.

#### **§ 1006. Vacancy**

If a vacancy should occur in the Office of the President of the Navajo Nation or the President is unable to perform his/her powers and duties, the Vice-President of the Navajo Nation shall serve as President of the Navajo Nation and serve the remainder of the term or until the President's inability to perform his/her powers and duties is removed. If a vacancy should occur in the Office of the President and Vice-President of the Navajo Nation, the Speaker of the Navajo Nation Council shall serve as President of the Navajo Nation until a special election is held. Such special election shall be called by the Navajo Board of Election Supervisors pursuant to the provisions of the Navajo Election Code. Service by the Speaker as the President shall not create a vacancy in the Office of the Speaker.

#### **History**

CD-68-89, December 15, 1989.

CJ-13-53, January 6, 1953.

Rules governing Tribal Council, July 1938, Ch. 111, § 10, Res. p. 198.

#### **§ 1007. Residences**

Residences shall be furnished at Window Rock, Arizona, together with the cost of water, sewer, refuse disposal, electricity and natural gas, without charge, to the President and Vice-President of the Navajo Nation. If the President or Vice-President decline to reside in such residence, the Navajo Nation shall not be responsible or liable for costs and expenses of living elsewhere.

#### **History**

CD-68-89, December 15, 1989.

CJ-13-53, January 6, 1953.

CO-69-53, October 9, 1953.

#### **§ 1008. Salary**

The salary of the President and Vice-President of the Navajo Nation shall be fifty-five thousand dollars (\$55,000) and forty-five thousand dollars (\$45,000) per annum, respectively. Salary adjustments may be approved by the Navajo Nation Council but shall not become effective until and unless approved by a referendum.

#### **History**

CJY-63-00, Override of Presidential Veto, CJY-52-00, Amending §§ 106(A) and 1008 to Adjust the Salaries of the Navajo Nation President, Vice-President, and Navajo Nation Council Delegates by ten thousand dollars (\$10,000). Determined invalid. See, *Judy v. White*, No. SC-CV-35-02, Slip. Op. August 2, 2004 (N. Sup. Ct. 2004).

CD-68-89, December 15, 1989.

1984-1982 Budgets.

CMY-26-79, May 4, 1979.

1972 Budget.

CJY-30-63, July 6, 1963.

CM-25-56, May 17, 1956.

CJ-3-53, January 6, 1953.

CJ-11-52, January 23, 1952.

## **Annotations**

### **1. Construction and application**

"Lastly, we consider the District Court's mandate that White 'take such actions as may be necessary to recoup illegal payments of salary, deferred compensation or tax contributions by the Navajo Nation, and to seek assistance of pertinent Navajo Nation officials for such purposes.' *Judy v. White*, No. CH-CV-53-01, slip op. At 12 (Chin.Dist.Ct. August 21, 2002). We reverse and vacate the district court's judgment." *Judy v. White*, No. SC-CV-35-02, slip op. at 24 (Nav. Sup. Ct. August 2, 2004).

"2 N.N.C. § 1008, as codified, is the only valid legislation which can form the basis for the President's and Vice President's salary increases." *Judy v. White*, No. SC-CV-35-02, slip op. at 22 (Nav. Sup. Ct. August 2, 2004).

### **2. Validity**

"Resolution CJY-52-00 is invalid, and any payment of salaries in excess of those mandated by 2 N.N.C. §§ 106(A) and 1008 is illegal. We therefore affirm the trial court's decision invalidating CJY-52-00." *Judy v. White*, No. SC-CV-35-02, slip op. at 22 (Nav. Sup. Ct. August 2, 2004).

### **§ 1009. Staff**

The President and Vice-President shall appoint such assistants, administrators, legal counsel and clerical staff as may be budgeted for.

### **History**

CD-68-89, December 15, 1989.

1976-1972 Budgets.

CJA-8-71, January 31, 1971.

### **§ 1010. Gifts of property**

The President of the Navajo Nation shall, for and on behalf of the Navajo Nation, accept or decline gifts of property, provided, that any such acceptance or refusal of a gift of an estimated value in excess of one thousand dollars (\$1,000) shall be with the concurrence of the Government Services Committee. All gifts to the Navajo Nation shall be and remain the property of the Navajo Nation.

### **History**

CD-68-89, December 15, 1989.

CMY-44-70, May 19, 1970.

## **Cross References**

Navajo Nation Ethics in Government Law, see 2 N.N.C., § 3741 *et seq.*

**§ 1011. Valuation and accounting; distribution**

The President of the Navajo Nation, upon acceptance of any gifts of property, shall cause a valuation and accounting of the property to be made. He/she shall further cause the property to be preserved and distributed in such a manner that the Navajo People will receive benefit thereby, or that income from sales will accrue to the Navajo Nation. Distribution of gifts in excess of one thousand dollars (\$1,000) value shall be with concurrence of the Government Services Committee.

**History**

CD-68-89, December 15, 1989.

CMY-44-70, May 19, 1970.

**§ 1012. Recording of gifts**

All public officials, elected and non-elected, of the Navajo Nation receiving gifts, whether intended as a gift to the official or to the Navajo Nation, shall record or cause to be recorded such gift with the Ethics and Rules Office.

**History**

CD-68-89, December 15, 1989.

**Note.** Slightly reworded for purposes of statutory form.

**§ 1013. [Repealed]**

**History**

CJY-54-01, July 19, 2001. Section repealed to acknowledge changes made by passage of the Navajo Nation Procurement Code.

**Article 2. Navajo-Hopi Land Commission Office**

**History**

GSCF-10-9 1, February 26, 1991.

CD-68-89, December 15, 1989.

ACAP-49-83, April 4, 1983.

**Note.** The "Navajo-Hopi Land Commission", previously at 2 N.N.C. §§ 33013308 is redesignated at 2 N.N.C. §§ 851-858 in the Legislative Branch.

**§ 1021. Navajo-Hopi Land Commission Office**

A. The Navajo-Hopi Land Commission Office ("Commission Office") is established under the Office of the President of the Navajo Nation. The President of the Navajo Nation shall appoint an Executive Director who shall head the Land Commission Office and who shall serve at the pleasure of the President of the Navajo Nation.

B. The Navajo-Hopi Land Commission Office shall perform its assigned functions as outlined in its approved Plan of Operation.

#### **History**

GSCF-10-91, February 26, 1991.

#### **Cross References**

Navajo-Hopi Land Commission, see 2 N.N.C. §§ 851-858.

### **Subchapter 3. Office of Hearings and Appeals**

#### **History**

Subchapter 3. formerly "Office of Legislative Affairs" adopted by ACJN-77-84, June 15, 1984, was discontinued when Office of Legislative Services was established by CD-68-89, December 15, 1989. See now 2 N.N.C. § 951 *et seq.* See also, the 1972 Budget, "Office of Legislative Secretary".

#### **§ 1051. Establishment**

There is established the Office of Hearings and Appeals within the Executive Branch of the Navajo Nation government. The Office shall be separate and independent from all other divisions, departments, programs, commissions, enterprises, boards, or other Navajo Nation government entities.

#### **History**

GSCAP-19-95, April 5, 1995.

GSCAP-20-93, April 27, 1993.

#### **§ 1052. Purpose**

The purpose of the Office of Hearings and Appeals is to serve as an informed, fair and impartial forum for hearing contested cases arising under applicable rules and regulations. The Office may also serve as a forum for contested cases not otherwise included in Navajo Nation law, if requested to do so by the exempted governmental entity. At the discretion of the Director of the Office, the Office may serve as a forum for rule-making hearings, upon request from a governmental entity.

#### **History**

GSCAP-19-95, April 5, 1995.

GSCAP-20-93, April 27, 1993.

**§ 1053. Organization and staff**

A. The Director, who will also act as the chief hearing officer, shall be appointed by the President for a term of six years. Upon completion of a six-year term, the Director may be considered for reappointment to another six-year term. The Director shall not be a political appointment; nor shall he/she serve at the pleasure of any person or entity. The Director shall have all of the rights of a permanent Executive Branch employee under the Personnel Policies and Procedures. The Director shall be responsible for implementation of policy and the administration of the Office, and shall exercise the powers and authority granted to the Office. The Director may employ or engage persons qualified by education and experience necessary to discharge the duties of the Office and may delegate authority and duties among such persons.

B. Staff.

1. The Director is authorized to hire, pursuant to the applicable laws and regulations of the Navajo Nation, hearing officers and technical and support staff authorized by the Office from time to time. The Director may also recommend additional staff positions as needed to carry out the purposes and powers described herein. Such additional staff shall be hired within applicable budget limitations.

2. All staff personnel shall be employed and compensated in accordance with applicable Personnel Policies and Procedures.

3. Hearing officers who hear contested cases shall be attorneys licensed to practice law in the Courts of the Navajo Nation and in the courts of one or more of the three states in which the Navajo Nation is situated. If a hearing officer is hired without such qualifications, a one year probationary period will be provided in order to obtain the necessary license. If the license is not attained within one year, the hearing officer shall be released from employment with the Office.

4. Support staff for the Office shall include one or more legal secretaries.

C. Organization. Personnel added after the initial establishment of the Office may be hired without change in this Plan of Operation or in the organization so long as there is appropriate funding available and the added positions fit within this plan and the organization.

**History**

GSCAP-19-95, April 5, 1995.

GSCAP-20-93, April 27, 1993.

**Note.** The organizational chart was deleted and minor changes in language in Subsection (C) were made to reflect this action and for statutory form.



## Annotations

### 1. Appointment of Hearing Officer

"Section 1053(A) of Title 2 provides that the Director of the OHA, pursuant to 'the powers and authority granted to the Office. . .may employ or engage persons *qualified by education and experience necessary to discharge the duties of the Office and may delegate authority and duties among such persons.*' (emphasis added). [ ... ] While hearing officers *hired* as staff under section 1053(B) (3) must be 'licensed to practice law in the Courts of the Navajo Nation and in the courts of one or more of the three states in which the Navajo Nation is situated,' Judge Perry will not be hired as staff, and therefore 2 N.N.C. § 1053(B) does not apply. [...] For the foregoing reasons and pursuant to 2 N.N.C. § 1053(A), we [the Supreme Court] appointed the Honorable Judge Carol K. Perry to preside as Hearing Officer at the Office of Hearings and Appeals in this case." *In the Matter of the Navajo Nation Election Administration's Determination of Insufficiency Regarding Two Initiative Petitions Filed by Navajo Nation President Dr. Joe Shirley, Jr.-Shirley v. Office of Hearings and Appeals*, No. SC-CV-24-09, slip op. at 8-9 (Nav. Sup. Ct. June 22, 2009).

#### § 1054. Power and authority

In addition to all powers and authority reasonable to carry out the purposes set forth in this plan, the Office of Hearings and Appeals shall have the following specific powers and authority to:

A. In contested cases, hear and decide or make recommendations to the decision-making authority pursuant to Navajo laws and regulations.

B. In hearings for other than contested cases, hear and decide or make recommendations as may be required or requested.

C. Exercise all powers and authority necessary or reasonable to carry out the purposes of applicable Navajo laws and regulations.

D. With relation to contested cases or other hearings, a hearing officer may

1. Administer oaths, examine witnesses, and receive evidence; however, no person may be compelled to divulge information which he/she could not be compelled to divulge in the courts of the Navajo Nation;

2. Issue subpoenas, procedural orders, and other orders necessary to the hearing procedures referred to herein;

3. Receive relevant evidence and rule upon offers of proof and other evidentiary matters;

4. Take or cause depositions to be taken;

5. Regulate the course of the hearing;

6. Hold conferences for the settlement or simplification of the issues;

7. Dispose of procedural matters by decision;

8. Take official notice of matters that could be given judicial notice in the Courts of the Navajo Nation; and

9. Take any other action authorized by the laws or regulations of the Navajo Nation.

E. Promulgate regulations to govern hearings in contested cases and, if the Office exercises its discretion to preside over rule-making hearings, promulgate regulations to govern such hearings.

### **History**

GSCAP-19-95, April 5, 1995.

GSCAP-20-93, April 23, 1993.

### **Annotations**

#### **1. Grazing disputes**

"The Court holds the OHA has jurisdiction to hear and decide a grazing dispute which predates Navajo Nation Council Resolution CO-59-03 where an official decision is inadequate to conduct an appellate review." *Charley and Looking Glass v. Benally, et al.*, No. SC-CV-19-07, slip op. at 8 (Nav. Sup. Ct. December 10, 2008).

#### **2. Homesite leases**

"In 2003, the Navajo Nation Council, by Resolution CO-59-03 (October 21, 2003), authorized the OHA to hear and decide disputes concerning grazing rights and land boundaries. See also *Charlie v. Benally*, No. SC-CV-19-07, slip op. at 6 (Nav. Sup. Ct. December 10, 2008) (OHA delegated authority to resolve all grazing, land and fencing disputes not pending appeal before the Resources Committee). The [Homesite Lease] Policy & Procedure outlines the homesite application process and permits a land or grazing permittee to intervene." *Begay v. King*, No. SC-CV-51-06, slip op. at 3 (Nav. Sup. Ct. April 13, 2009).

### **§ 1055. Judicial enforcement of orders and subpoenas**

A. If an individual fails to obey a subpoena issued by a hearing officer, or obeys a subpoena but refuses to testify when requested concerning any matter under examination or investigation at the hearing, the aggrieved party may petition the appropriate Navajo Nation Court for enforcement of the subpoena.

B. In addition to other remedies provided by law or regulation, the Office or its hearing officers may seek enforcement of its rules, regulations, rulings, or orders by filing a petition for civil enforcement in the appropriate Court of the Navajo Nation. The Office or hearing officer may request declaratory relief, temporary or permanent injunctive relief, or any other civil remedy, or combination of remedies, provided by the laws of the Navajo Nation.

### **History**

GSCAP-19-95, April 5, 1995.

GSCAP-20-93, April 23, 1993.

### **§ 1056. [Repealed]**

### **History**

GSCAP-19-95, April 5, 1995. Repealed Sunset Provision.

GSCAP-20-93, April 23, 1993.

### **§ 1057. Right of Appeal**

Unless otherwise provided by law, the right of appeal of final decisions of the Office of Hearings and Appeals is exclusively to the Navajo Nation Supreme Court and must be filed within 30 days from the date of decision.

### **History**

GSCD-98-01, December 11, 2001, Added § 1057.

GSCAP-19-95, April 5, 1995.

### **Annotations**

#### **1. Certified questions**

"Therefore, our appellate authority over OHA [referring to 11 N.N.C. § 404(B)(14)(b)(7)] gives this Court the jurisdiction to hear its certified questions, and *Election Supervisors* is overruled." *In the Matter of Two Initiative Petitions Filed by Navajo Nation President Joe Shirley, Jr.*, No. SC-CV-41-08, slip op. at 3 (Nav. Sup. Ct. July 18, 2008)-(Order of Correction entered July 22, 2008). [See, *In re Navajo Board of Election Supervisors*, 6 Nav. R. 302, 303-304 (Nav. Sup. Ct. 1990).]

#### **2. Findings of fact and conclusions of law**

"Findings of fact and conclusions of law by the trial courts are required by this Court and matters will be remanded when this requirement is not complied with. See *Help v. Silvers*, 4 Nav. R. 46, 47 (Nav. Ct. App. 1983) and *Navajo Transport Services v. Schroeder*, No. SC-CV-44-06, slip op. at 5 (Nav. Sup. Ct. April 30, 2007). Meaningful judicial review also cannot occur if the lower quasi-judicial tribunal does not provide reasons why it decided a certain way and not another." *Charley and Looking Glass v. Benally, et al.*, No. SC-CV-19-07, slip op. at 7-8 (Nav. Sup. Ct. December 10, 2008).

#### **3. Grazing disputes**

"The Court holds the OHA has jurisdiction to hear and decide a grazing dispute which predates Navajo Nation Council Resolution CO-59-03 where an official

decision is inadequate to conduct an appellate review." *Charley and Looking Glass v. Benally, et al.*, No. SC-CV-19-07, slip op. at 8 (Nav. Sup. Ct. December 10, 2008).

#### **4. Homesite leases**

"If it has been determined that the objecting party has no grounds to object, such homesite application will be processed and finalized. Homesite Lease Policy & Procedures, XIII B.7. This provision clearly supports the notion that a groundless objection will not halt the finalization of a homesite lease application. Thus, the OHA erred in its legal conclusion that the Kings' consent was a condition precedent. The OHA does not explain how or what law provides that consent is a condition precedent. The OHA's legal conclusion therefore was not supported by substantial evidence and is not in accordance with the law." *Begay v. King*, No. SC-CV-51-06, slip op. at 4 (Nav. Sup. Ct. April 13, 2009).

#### **§ 1058. Legislative oversight**

The Office of Hearings and Appeals shall be under the legislative oversight of the Government Services Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 343 (B) (4).

##### **History**

GSCAP-19-95, April 5, 1995.

GSCAP-20-93, April 23, 1993.

#### **§ 1059. Amendments**

This Plan of Operation may be amended from time to time by the Government Services Committee of the Navajo Nation Council.

##### **History**

GSCD-98-01. Added Section 1057 to provide a right of appeal to the Navajo Nation Supreme Court. Subsequent sections renumbered.

GSCAP-19-95, April 5, 1995.

GSCAP-20-93, April 23, 1993.

#### **Subchapter 4. [Reserved]**

#### **Subchapter 5. [Reserved]**

##### **History**

Subchapter 5 formerly the Office of Auditor General derived from the 1978 Budget, can now be found at 12 N.N.C. §§ 1-7; prior designation of this Subchapter at §§ 1101-1104, "Legal Office", was redesignated "Tribal Legal Department" by the 1978 Budget Resolution and moved to 2 N.N.C. § 1991-1994.

See now Office of Attorney General at 2 N.N.C. § 199 1, et seq.; Office of Legislative Counsel at 2 N.N.C. § 960 et seq.; and 12 N.N.C. §§ 1-7 for Office of Auditor General.

## **Subchapter 6. Navajo Women's Commission**

### **History**

Former §§ 1121-1124, 1126-1127, deleted by CJA-07-92, January 22, 1972, leaving only Navajo Women's Commission at § 1125, now redesignated at § 1121. GSCS-54-91, September 10, 1991, renamed the Office of Navajo Women, the Office of Navajo Women and Families and placed the program in the Division of Human Resources; see also 2 N.N.C. § 1701 et seq. and CJA-07-92, January 22, 1992.

### **§ 1121. Navajo Women's Commission**

A. The Navajo Women's Commission is established under the Executive Branch of the Navajo Nation government.

B. The purposes of the Women's Commission include:

1. Supporting improvement in the status of Navajo men, women, youth, children and their families;
2. Promoting methods for enabling women to develop their skills, to continue their education, to be retained to assume leadership roles;
3. Assisting in setting government policies related to Navajo men, women, youth, children and their families;
4. Assuring the Commission complies with Navajo Nation, federal and state laws;
5. Reporting to the Navajo Nation President from time to time on the status of Navajo women and families;
6. Undertaking studies and reviews on the status of Navajo men, women, youth, children and their families;
7. Securing recognition for the accomplishments and contributions of women to Navajo society; and
8. Securing and/or seeking tribal, state and federal funding to provide awareness and prevention, intervention against domestic violence, youth violence and abuse against elderly.

C. Membership, selection, terms of office, removal:

1. The Commission shall consist of five enrolled Navajo individuals representing various socio-economic, educational, and professional backgrounds, who shall be appointed by the Navajo Nation President, and confirmed by the Government Services Committee of the Navajo Nation Council. Appointed commissioners shall represent but not be limited to

the following fields: education, business, human services, law, and health. Commissioners shall have demonstrated leadership skills and ability to contribute to the fulfillment of the purpose and duties of the Commission.

2. Each of the five agencies of the Navajo Nation shall have one representative on the Commission:

- a. Eastern Agency (1);
- b. Fort Defiance Agency (1);
- c. Northern Navajo Agency (1);
- d. Western Navajo Agency (1);
- e. Central Navajo Agency (1).

3. Term of Office. The term of office shall be for a staggered term of four years. All appointments shall remain effective until the qualification, selection and confirmation of their successors is made or, until they resign, or are removed or disqualified, and shall remain in effect for the duration of that Commissioner's term. The initial appointments of the Navajo Women's Commission shall be made by the President and confirmed by the Government Services Committee of the Navajo Nation Council for a period of four years. The Commissioners shall retain at least three members, to ensure that experienced members of the Navajo Women's Commission are serving at all times.

4. The Chairperson, Vice-Chairperson, and Secretary of the Commission shall be selected by the Commission; and

5. A Commissioner shall be removed by the Navajo Nation President for missing three consecutive meetings without good cause, or at the request of that Commissioner.

D. Powers. The powers of the Commission are as follows:

1. The Commission is authorized and directed to disseminate information to the Navajo public concerning men, youth, children and women's issues, maintain local participation of men, youth, children and women within their communities, and advocate the continuation and support of programs and laws assisting Navajo men, women, youth and children;

2. To develop recommendations and proposals relating to Navajo women and families;

3. To provide short and long range planning, evaluation, and development to further enhance the status of Navajo women and families;

4. To review, evaluate, and recommend laws, rules and regulations of the Navajo Nation government in order to improve direct services delivery systems for Navajo women and families;

5. To collect, assemble, evaluate, interpret, and distribute information, data, statistics, and evidence which describe the needs, circumstances, and status of Navajo men, women, youth and children;

6. To conduct public hearings;

7. To encourage private and public organizations, chapters, traditional Navajo leaders, including native ceremonial practitioners to actively carry out the purposes of the Commission. The Commission shall give due consideration to the traditional values, preservation of family harmony and philosophical views of the Navajo People;

8. Work through the Navajo Women's Commission, and with the Office of Navajo Women and Families Program Director and staff to plan overall goals and objectives and implement actions;

9. Work with Navajo Nation Council Delegates and the Navajo Nation President's Office to promote plans and legislation on behalf of Navajo men, women, youth and children;

10. To establish networking and coordination with other Navajo Nation Departments/Divisions, state, federal agencies for the benefit of Navajo men, women, youth and children; and

11. To establish the authority to solicit funds, fund-raising and accept donations for Navajo youth and families incentive program and awards.

#### E. Meetings.

1. Meetings shall be held at least every month, provided that funds are available.

2. At any meeting a quorum shall consist of a simple majority of Commission members.

3. In the event the Chairperson and Vice-Chairperson are absent from a meeting, the members present shall select a Pro Tem Chairperson to conduct the meeting.

4. Minutes of each meeting shall be recorded and officially filed with the Records Management of the Navajo Nation.

5. Members attending Commission meetings shall be reimbursed for travel and other expenses consistent with the rates established by Navajo Nation policy. Full per diem shall be paid when all agenda items are concluded.

6. The Commission is empowered to develop its own procedures for the conduct of official meetings.

#### F. Reports.

The Commission shall provide reports quarterly and in writing to the

Navajo Nation President and Navajo Nation Council concerning matters relating to Navajo men, women, youth and children.

**History**

GSCJY-61-99, July 13, 1999.

CAP-34-97, April 24, 1997.

CJA-07-92, January 22, 1992.

ACAP-63-85, April 11, 1985.

ACJY-108-83, July 6, 1983.

**§ 1122. Legislative Oversight**

Legislative oversight for the operation of the Navajo Women's Commission shall be provided by the Human Services Committee of the Navajo Nation Council.

**History**

GSCJY-61-99, July 13, 1999.

CAP-34-97, April 24, 1997.

CJA-07-92, January 22, 1992.

ACAP-63-85, April 11, 1985.

ACJY-108-83, July 6, 1983.

**§ 1123. Amendment of the Plan of Operation**

The Navajo Women's Commission Plan of Operation may be amended from time to time upon recommendation by the Human Services Committee and final approval by the Government Services Committee of the Navajo Nation Council.

**History**

GSCJY-61-99, July 13, 1999.

CAP-34-97, April 24, 1997.

CJA-07-92, January 22, 1992.

ACAP-63-85, April 11, 1985.

ACJY-108-83, July 6, 1983.

**Subchapter 7. Navajo Nation Washington Office**

**History**



Former Subchapter 7, The Navajo Veteran's Commission was established by CF-14-82, February 10, 1982. By ACAU-104-84, August 24, 1984, a Plan of Operation was adopted which was later rescinded by ACJY-167-87; July 28, 1987; thereafter ACN-213-88, November 15, 1988, rescinded by the Plan of Operation for the Navajo Veterans Commission and established in its stead a Navajo Nation Council Committee, the Navajo Veteran's Committee. By CMA-17-89, the Veterans Committee was continued until December 15, 1989, when the Veteran's Committee was abolished and its responsibilities absorbed into the Human Services Committee which was established by CD-68-89, December 15, 1989. See now 2 N.N.C. § 601 *et seq.*

#### **§ 1150. Establishment**

There is hereby established the Navajo Nation Washington Office within the Executive Branch of the Navajo Nation government as an intergovernmental relations office.

#### **History**

GSCJY-14-08(A), July 31, 2008.

ACAU-102-84, August 23, 1984.

#### **§ 1151. Purposes**

The purposes of the Navajo Nation Washington Office are to:

A. Exist as an extension of the Navajo Nation government in Washington, D.C., representing the Navajo Nation government's concerns to the United States Congress and federal agencies.

B. Enhance the success of the Navajo Nation government's goals and objectives by strengthening the control and influence of the Navajo Nation over the activities of the federal government.

C. Maintain a Navajo presence in Washington, D.C., that would emphasize the government to government relationship thereby improving the capacity of the Navajo People to govern and represent themselves.

D. Provide for the Navajo Nation government easy and rapid access to Congress, the Administration, and federal agencies.

E. Monitor and analyze all Congressional legislation and activities of committees and subcommittees that affect the Navajo Nation, as well as all federal administration activities, specifically those that administer Indian programs.

F. Distribute to the Navajo Nation government information concerning congressional and administrative activities that affect the welfare of the Navajo Nation and to provide advice regarding alternatives that exist in developing strategies and decisions concerning Navajo programs, policies, budgets, and any other areas of concern to the Navajo Nation.

G. Assist in the preparation of legislative proposals and testimony before Congress.

H. Provide assistance to Navajo Nation government entities testifying before Congress or conducting Navajo Nation government business in Washington, D.C.

#### **History**

GSCJY-14-08(A), July 31, 2008.

ACAU-102-84, August 23, 1984.

#### **Cross References**

Intergovernmental Relations Committee of the Navajo Nation Council, authority and powers, see 2 N.N.C. § 821 *et seq.*

#### **§ 1152. Personnel**

A. There is hereby established the position of the Director of the Navajo Nation Washington Office and such other positions as may from time to time be budgeted for by the Budget and Finance Committee of the Navajo Nation Council or the Navajo Nation Council or by any other source acceptable to the President of the Navajo Nation.

B. The Director shall be appointed by the President of the Navajo Nation, subject to confirmation by the Navajo Nation Council, to serve at a negotiated salary and at the pleasure of the President of the Navajo Nation.

C. All other personnel shall be hired by the Director and shall serve at the pleasure of the Director. Such personnel shall be employed in accordance with the Navajo Nation Personnel Policies Manual. Compensation for Navajo Nation Washington Office employees shall factor in the need to attract qualified Navajos to employment positions at prevailing market pay levels within the Washington, D.C. area. See, Navajo Nation Personnel Policies Manual, Section VII(D) (3)-(5).

#### **History**

GSCJY-14-08(A), July 31, 2008.

**Note.** Subsection C references the Navajo Nation Personnel Policies Manual effective October 1, 2007, and last amended by Resolution HSCM-03-07.

ACAU-102-84, August 23, 1984.

#### **§ 1153. Duties, responsibilities and authority of the Director**

The duties, responsibilities and authority of the Director shall be as follows:

A. Report and be responsible to the Navajo Nation Council through the President of the Navajo Nation for the accomplishment of the purposes,

objectives, and functions of the Navajo Nation Washington Office.

B. Formulate overall administrative and operating policies pertaining to the Navajo Nation Washington Office and to take such actions as the Director shall deem necessary for the accomplishment and enforcement thereof.

C. Represent the Navajo Nation Washington Office in executive level planning.

D. Represent the Navajo Nation government within the areas of the responsibility of the office in dealings and relations with persons and organizations outside the Navajo Nation government.

E. Conduct such special projects and programs as may be assigned.

F. Delegate authority to his or her staff.

#### **History**

ACAU-102-84, August 23, 1984.

#### **§ 1154. Legislative oversight**

The Navajo Nation Washington Office shall operate under the legislative oversight of the Government Services Committee of the Navajo Nation Council pursuant to 2 N.N.C. § 343.

#### **History**

GSCJY-14-08(A), July 31, 2008.

#### **§ 1155. Amendments**

This plan of operation may be amended by the Government Services Committee of the Navajo Nation Council pursuant to 2 N.N.C. § 343(B)(2).

#### **History**

GSCJY-14-08(A), July 31, 2008.

#### **§§ 1156 to 1199. [Reserved]**

### **Subchapter 8. [Reserved]**

#### **History**

Formerly at Subchapter 7, the Office of the Prosecutor was continued at Subchapter 8, §§ 1171-1183 by ON-60-71, June 8, 1971 and CJY-43-76, June 14, 1976 (Budget resolutions) and is now redesignated at 2 N.N.C. § 1971 *et seq.* within the Office of the Attorney General. See 2 N.N.C. § 1971 *et seq.*

### **Subchapter 9. Office of Management and Budget**

### **History**

The Office of Operations, in the 1977, 1976 and 1972 Budgets and previously codified at §§ 1201-1203 of this title, was discontinued by the 1978 Budget and organization chart. The Office of Management and Policy Analysis was discontinued in 1979.

### **§ 1201. Establishment**

There is established the Office of Management and Budget within the Executive Branch of the Navajo Nation. The Director of the Office of Management and Budget shall serve under the general direction and guidance of the President of the Navajo Nation and the Budget and Finance Committee of the Navajo Nation Council shall provide legislative oversight.

### **History**

ACO-131-84, October 11, 1984.

### **§ 1202. Purpose**

The purpose of the Office of Management and Budget is to direct and manage the allocation and appropriation processes of all funds for the Navajo Nation and to provide management support in the areas of fiscal management, budgets, program operation and management, contracts, grants and similar agreements. The Office of Management and Budget is to communicate key information necessary for decision-making using principles of sound management and generally accepted processes and procedures.

### **History**

CAP-17-02, April 16, 2002. Amended generally.

ACO-131-84, October 11, 1984.

### **§ 1203. Authority and responsibility**

A. The Office of Management and Budget is authorized to:

1. Recommend and develop actions on all appropriation processes (i.e. general, federal, state, etc.) to ensure optimal Navajo Nation participation and benefit.

2. Direct and coordinate the submission of proposed budgets, contract and grant applications, and any other related agreements to ensure compliance with appropriate laws, regulations and guidelines.

3. Conduct comprehensive program analysis and monitoring.

4. Establish and administer all necessary policies for improved program performance to appropriate Navajo Nation officials to ensure compliance with Navajo Nation laws, regulations and guidelines.

5. Recommend and develop actions for improved program performance

to appropriate Navajo Nation officials to ensure compliance with Navajo Nation laws, regulations and guidelines.

6. Represent the Navajo Nation within areas of the responsibility and authority of the office in relations with persons and organizations outside the Navajo Nation and in matters relating to agreements with state or federal agencies pertaining to appropriation and allocation of funding.

B. Contracts and Grants Section Responsibilities. The Office of Management and Budget shall employ a Contracting Officer, with the general responsibility to coordinate the contracts and grants administration process for the Navajo Nation Government.

1. Authorities of the Contracting Officer:

a. Ensure all applications, proposals and related funding requests comply with applicable laws, regulations, and guidelines.

b. Review original applications and/or proposals to ensure proper approval prior to submission to the external funding source.

c. Arrange and coordinate joint meetings within the Navajo Nation and between the Navajo Nation and external funding sources to resolve contracts and grants issues.

d. Obtain program information as required for conducting monitoring and compliance activities.

e. Negotiate, on behalf and in the best interest of the Navajo Nation, contracts, grants and other similar agreements in accordance with the needs and requirements of the Navajo Nation.

f. Recommend and develop actions to appropriate officials on any matters pertaining to Navajo Nation contracts and grants and other external funds.

g. Recommend approval or disapproval of any application and/or proposal based upon:

(1) Consistency with current Navajo Nation strategies, goals, objectives and work plans for overall program planning and development: and

(2) Compliance with current Navajo Nation policy and procedures for entering into contracts and grants and other similar agreements.

### **History**

CAP-17-02, April 16, 2002. Amended generally.

ACO-131-84, October 11, 1984,

**Note.** Slightly reworded and corrections made for purposes of statutory form.

#### **§ 1204. Personnel**

A. The Office of Management and Budget shall be administered by an Executive Director who shall be employed and compensated pursuant to Personnel Policies and Procedures of the Navajo Nation. The Executive Director shall report directly to the President of the Navajo Nation.

B. The Office of Management and Budget shall include a Contracting Officer who shall be responsible for the administration of all contracts and grants as delineated at § 1203(B) herein. The Contracting Officer shall report directly to the Executive Director of the Office of Management and Budget for ministerial matters and to the President and/or appropriate standing committee for grant/contract issues.

#### **History**

CAP-17-02, April 16, 2002. Amended generally.

ACO-131-84, October 11, 1984.

**Note.** Slightly reworded for purposes of statutory form.

#### **§ 1205. Amendments**

This Plan of Operation may be amended by the Navajo Nation Council upon recommendation by the Budget and Finance Committee of the Navajo Nation Council.

#### **History**

CAP-17-02, April 16, 2002. Amended generally.

ACO-131-84, October 11, 1984.

**Note.** Slightly reworded for purposes of statutory form.

### **Subchapter 10. [Reserved]**

#### **History**

Office of Youth Affairs established by ACJY-82-82 was continued by ACAU-97-84 as the Division of Youth Development and Services. By GSCJA-02-95 the Plan of Operation for the Department of Youth/Community Services was incorporated into the Division of Education. See 2 N.N.C. § 1801 *et seq.*

### **Subchapter 11. Division of General Services**

#### **History**

CMA-16-90, Exhibit "B", March 29, 1990. By way of Budget resolution the Navajo Nation Council restructured the Division of Administration and Finance and the

Division of General Services. No establishment language was adopted at the time nor was a Plan of Operation put in place.

**Note.** Listed below are a few of the programs operated within the Division of Finance.

Purchasing Services. "Property Department", later redesignated as "Property and Purchasing Department", (CJY-43-76) was created by the 1973 Budget Resolution (CJN-66-72) however was discontinued by the 1978 Budget Resolution (CO-65-77). The Department was replaced with the materials Management Branch of the General Services Department of the Division of Administration and Finance.

Property Management. "Property Department", later redesignated as "Property and Purchasing Department", (CJY-43-76) was created by the 1973 Budget Resolution (CJN-66-72) however was discontinued by the 1978 Budget Resolution (CO-65-77). The Department was replaced with the materials Management Branch of the General Services Department of the Division of Administration and Finance.

Credit Services. See CF-13-85, ACD-234-85, CO-50-87, ACN-229-87, ACF21-88.

Home Loan Program. See BFJN-51-94 for Policies.

Personal Loan Program. See ACF-21-88, CLCO-34-88 and CLCO-19-88.

#### **§ 1251. Establishment; purpose; composition**

There is hereby established the Division of General Services within the Executive Branch of the Navajo Nation Government.

#### **History**

CO-87-95, October 19, 1995.

#### **§ 1252. Purposes and Objectives**

A. The purpose of the Division of General Services shall be:

1. To administer, plan, organize and monitor all aspects of the Division of General Services' programs or departments to ensure that services for the Navajo Nation Government and its individual employees are properly provided.

2. To effectively manage the diverse services provided by the various programs and departments.

B. The objectives of the Division of General Services shall include:

1. Providing safe and efficient chartered air transportation for various officials of the Navajo Nation in compliance with all Navajo Nation, state and federal laws regarding such transportation.

2. Providing management and planning for all communication and utility services for the Navajo Nation Government, including working with all state and federal agencies to develop and maintain technological

systems to ensure efficient and comprehensive service to the Navajo Nation Government and its people.

3. Providing updated computer technology to the Navajo Nation Government and its various divisions which may include assisting with development of training of the Navajo Nation employees in the use of various available computer systems.

4. Providing rental houses for the Navajo Nation employees in the local area so as to maintain an adequate work force.

5. Providing maintenance of the Nation's buildings including all structural, mechanical and electrical services, heating and cooling systems, grounds maintenance, custodial services and limited building renovation.

6. Providing motor vehicle transportation for the Navajo Nation Government employees including acquisition of a fleet of vehicles, routine maintenance of the fleet and selling vehicles as needed.

7. Providing cost effective insurance for the Nation and its employees by working with the Navajo Nation Insurance Commission.

8. Providing a ground transportation system for the Navajo people by offering low cost fixed route services on and around the Navajo Nation and by offering charter services to various groups in and around the Navajo Nation.

9. Maintaining custodial care of all vital official Navajo Nation Government records and provide duplicating services for the Government.

#### **History**

CO-87-95, October 19, 1995.

#### **§ 1253. Personnel**

The Division of General Services shall be administered by an Executive Director who shall be appointed by the President of the Navajo Nation and confirmed by the Navajo Nation Council. The Executive Director shall serve at the pleasure of the President. All personnel shall be subject to the Navajo Nation Personnel Policies and Procedures.

#### **History**

CO-87-95, October 19, 1995.

#### **§ 1254. Organization**

The Division of General Services shall be comprised of such departments and programs as deemed necessary to fulfill its purpose and objectives, subject to legislative review and approval of the Division's plan of operation.

#### **History**



CO-87-95, October 19, 1995.

**§ 1255. Legislative Oversight**

The Division of General Services shall be subject to the Legislative oversight authority of the Government Services Committee of the Navajo Nation Council.

**History**

CO-87-95, October 19, 1995.

**§ 1256. Amendments**

Sections 1251-1255 may be amended from time to time by the Navajo Nation Council, upon recommendation by the Government Services Committee of the Navajo Nation Council.

**History**

CO-87-95, October 19, 1995.

**Subchapter 12. [Reserved]**

**Subchapter 13. [Reserved]**

**History**

This Subchapter "Division of Justice" was renamed Department of Justice by CF-8-82, February 5, 1982 and redesignated at 2 N.N.C. § 1961 *et seq.*

Also formerly at Subchapter 13 was the "Office of Navajo Land Administration". CAU-50-59, § 1, August 6, 1959 established the Land Investigations Department.

The 1973 budget changed the Land Investigations Department into the Office of Navajo Tribal Land Administration codified at 16 N.N.C. § 201. The 1978 budget changed the Office of Navajo Tribal Land Administration to Land Administration Department and by ACAP-57-88 the Office of Navajo Land Administration was included in the Division of Resources.

By CAP-41-94, 16 N.N.C. § 201-204 were deleted from the Code and the Division of Natural Resources was established at 2 N.N.C. Subchapter 35. The Division is comprised of such programs as may be deemed necessary. See 2 N.N.C. § 1901 *et seq.* and notes.

**Note.** Planning and Zoning formerly at § 1302 is now in the Division of Community Development. See 2 N.N.C. § 1451, *et seq.*

**Subchapter 14. [Reserved]**

**Subchapter 15. Division of Public Safety**

## **History**

CAU-50-59, August 6, 1959, reorganized the Executive Branch and created among others a Division of Public Services which included "Police". This was implemented in the 1960 Budget.

CJA-7-70, January 8, 1970, amended CAU-50-59 to remove supervision of "Police" from the Division of Public Services and placed supervision with the Chairperson of the Navajo Tribal Council.

By CJN-60-71 the Office of Administration was established and the Division of Law Enforcement was placed under the Office of Administration.

CJY-72-74 created a Division of Law Enforcement by removing it from the Office of Administration.

In 1976 by Budget resolution, the Police Department was changed to the Office of Law Enforcement. Office of Resources and Security §§ 1351-1360 of this title was discontinued in 1978 by Budget Resolution and the Office of Law Enforcement was changed to the Division of Public Safety. ACJY-89-81, July 24, 1981 established the Division of Public Safety in Subchapter 15; 2 N.N.C. § 1351-1352.

ACAP-45-83 adopted a Plan of Operation for the Navajo Division of Public Safety by amendments to 2 N.N.C. §§ 1351 and 1352. ACN-232-87, November 13, 1987, rescinded ACJY-89-81 and ACAP-45-83 and established the Navajo Division of Public Safety at 2 N.N.C. § 1351 and adopted a Plan of Operation. GSCAU-28-92, August 12, 1992 amended ACN-232-87 but by its terms the amended Plan of Operation expired October 30, 1993 and ACN-232-87 came back into effect provided no new plan was adopted.

GSCN-62-93 extended the October 30, 1993 date to December 31, 1993.

**Note.** The Office of Resources and Security, §§ 1351-1360 of this title, was discontinued by the 1978 Budget and organization chart.

### **§ 1351. Establishment**

There is hereby established the Navajo Division of Public Safety within the Executive Branch of the Navajo Nation Government.

## **History**

CO-86-95, October 19, 1995.

ACN-232-87, November 13, 1987.

### **§ 1352. Purpose and objectives**

A. The purposes of the Navajo Division of Public Safety shall be:

1. To plan, organize and administer all aspects of the Navajo Division of Public Safety programs so as to provide multi-public safety services that meet the needs of tribal members of the Navajo Nation, as

well as other individuals and entities, within the territorial jurisdiction of the Navajo Nation as defined in 7 N.N.C. § 254 and 18 U.S.C. § 1151.

2. To exercise control and authority over all law enforcement and public safety activities within the Navajo Nation and adjoining Indian Country as designated under Navajo, federal and other applicable laws where the Navajo Nation exercises jurisdiction.

B. The objectives of the Navajo Division of Public Safety include, but are not limited to the following:

1. To maintain law and order by the enforcement of applicable criminal laws and the safeguarding of the lives and properties of the persons on the Navajo Nation by deterring criminal activities and violations of tribal, state and federal laws, through effective investigation, and to provide assistance in prosecutions and appropriate court actions, in cooperation with the Navajo Nation Office of the Prosecutor and other criminal justice entities which possess jurisdiction; to negotiate and enter into appropriate agreements with other governmental jurisdictions to carry out the responsibilities herein, in compliance with applicable Navajo Nation laws, rules and regulations.

2. To provide support services in the collection of information and generation of reports relating to vehicular accidents which involve injuries, deaths and property damage for purposes of minimizing contributing factors; to provide defensive driver education for Navajo Nation employees; and to issue Navajo Nation driver's permits.

3. To plan for, respond to, and aid in the recovery from natural and man-made disasters on the Navajo Nation and to coordinate with and train tribal and affiliated non-tribal entities in the development of a comprehensive emergency management plan.

4. To provide fire and rescue services and to develop community volunteer fire services to effectively and efficiently respond to fire and rescue operations; to provide training facilities and instructors for local fire departments; to enforce fire and building codes and other applicable codes related to fire safety.

5. To respond to medical emergencies by rendering emergency care, and to transport the sick or injured to a clinic or hospital when appropriate.

6. To establish, operate and provide support services for victims of serious and violent crimes.

7. To provide and coordinate support services to ensure the availability of counseling for Division employees.

8. To coordinate and disseminate information on safety programs and to facilitate funding mechanism for its component departments with non-tribal entities.

9. To plan for, establish, provide and operate appropriate correctional facilities and appropriate correctional services.

**History**

CO-86-95, October 19, 1995.

ACN-232-87, November 13, 1987.

**§ 1353. Personnel**

The Navajo Division of Public Safety shall be administered by an Executive Director appointed by the President of the Navajo Nation, with the consent of the Navajo Nation Council, and who shall serve at the pleasure of the President of the Navajo Nation. The Executive Director shall exercise full authority and control over all division activities and shall be responsible for the selection and supervision of all department directors and all personnel, including delegation of authorities. The Executive Director shall further exercise full authority to commission certified law enforcement personnel pursuant to standards approved by the Navajo Nation. All personnel shall be subject to the Navajo Nation Personnel Policies and Procedures and other applicable grant or contract provisions.

**History**

CO-86-95, October 19, 1995.

ACN-232-87, November 13, 1987.

**Note.** The organizational chart was deleted from the Code and minor changes in language were made for statutory form.

**§ 1354. Organization**

The Navajo Division of Public Safety shall comprise such departments and administrative components as may be deemed necessary by the Executive Director to fulfill its purposes, subject to legislative review and approval of the Division's Plan of Operation. The specific functions and responsibilities of the Navajo Division of Public Safety are more fully set forth within the Plans of Operation for its component departments.

**History**

CO-86-95, October 19, 1995.

GSCAP-21-94, April 21, 1994. Amended Subsection (F).

ACN-232-87, November 13, 1987.

**Note.** Slightly reworded for statutory form and consistency.

**§ 1355. Legislative Oversight**

The Navajo Division of Public Safety shall operate under the legislative oversight of the Public Safety Committee of the Navajo Nation Council, pursuant to the powers granted that committee in 2 N.N.C. § 661, *et seq.*

#### **History**

CO-86-95, October 19, 1995.

#### **§ 1356. Amendments**

This Plan of Operation may be amended from time to time by the Navajo Nation Council upon recommendation of the Public Safety Committee and the Government Services Committee of the Navajo Nation Council, as deemed appropriate.

#### **History**

CO-86-95, October 19, 1995.

ACN-232-87, November 13, 1987.

**Note.** Slightly reworded for purposes of statutory form.

### **Subchapter 16. Crimestoppers Program**

#### **§ 1361. Establishment**

There is established a Navajo Nation Crimestoppers Program.

#### **History**

ACAP-51-84, April 12, 1984.

#### **§ 1362. Purposes**

The purposes of the Navajo Nation Crimestoppers Program shall be:

A. To establish and maintain an office in Window Rock, Navajo Nation, Arizona, to carry out the purposes stated herein.

B. To promote community involvement in reduction of criminal activity across the Navajo Nation.

C. To provide for confidentiality of information and anonymity for informants.

D. To provide 24 hour toll-free telephone access from across the Navajo Nation for the Crimestoppers Program. Such telephone to be located at the Navajo Division of Public Safety Dispatcher Office and manned by the Division of Public Safety personnel.

E. To serve as a clearinghouse for confidential information on actual or anticipated crimes.

F. To secure and provide information to law enforcement authorities on crimes occurring within the Navajo Nation.

G. To publicize through the news media facts on preselected unsolved crimes and request community involvement on a weekly basis.

H. To receive from the Navajo Division of Public Safety information on unsolved felony and misdemeanor cases and develop a "Crime of the Week" weekly column in the Navajo Times.

I. To serve as a recipient of financial contributions, bequests, grants or gifts for operational costs and/or rewards and to find and develop other funding sources.

J. To establish a reward fund and provide monetary rewards to informants when convictions occur.

K. To develop procedures necessary for control of and maintain complete records of incoming calls, informant code numbers and other statistical data.

### **History**

ACAP-51-84, April 12, 1984.

### **Cross References**

Gifts, authority of President of Navajo Nation to accept, see 2 N.N.C. § 1010.

### **§ 1363. Board of Directors**

A. Composition. The Navajo Nation Crimestoppers Program shall be governed by a Board of Directors composed of 21 members appointed by the President of the Navajo Nation. No Director shall receive any compensation for serving on the Board.

1. Term of Office. A term of office shall normally be for one, two or three years; however, no director may serve for more than three consecutive terms (including years served between September, 1984, and October, 1986). A person may be reappointed after being off the Board one or more years. Terms shall begin on the date of the appointment and may be for one, two, or three years as determined by the Board, the objective being, insofar as practical, to have no more than one-third (1/3) to one-half (1/2) of the Directors replaced at any one time.

2. Removal. Any Director may be removed, with or without cause, by a two-thirds (2/3) vote by secret ballot, at a regular or special meeting of the Board, provided that notice of the intent to call for such a vote, naming the Director, is given at least 24 hours prior to the meeting.

3. Enumerated Powers. In managing the affairs of the Crimestoppers Program, the Board shall specifically have, but not be limited to, the power to:

- a. Adopt standing rules;
- b. Recommend individuals to be employed;
- c. Procure and maintain bonds for persons having custody of funds; and
- d. Authorize disbursement of funds

B. Meetings of Directors.

1. Regular Meetings. The Board of Directors shall hold no less than nine regular meetings, including an annual meeting in September of each fiscal year. Normally, regular meetings will be held on a monthly basis on the second Friday of each calendar month at 10:00 a.m. The regular location for all meetings shall be at Window Rock, Navajo Nation, Arizona 86515. The date, time and location of regular meetings can be changed by the Chairperson of the Board by 24 hours advance notice.

2. Special Meetings. Special meetings of the Board of Directors may be called by the Chairperson with at least 24 hours notice, or by any four Board members with at least five days written notice. Such notice by the Chairperson or at least four Board members shall include a statement of the purpose of the meeting as well as the date, time and location of the special meeting.

3. Quorum. A quorum shall be a simple majority of the total Board of Directors, present and voting, excluding vacancies.

C. Officers and Duties.

1. Officers. The Officers of the Crimestoppers Program shall be a Chairperson of the Board, a Vice-Chairperson, a Secretary and a Treasurer, elected by the Board from within the Board of Directors, and such other officers as the Board may elect from time to time to carry out the affairs of the Crimestoppers Program.

2. Term. A term of office shall be for one year and shall begin at the close of the annual meeting. No officer may serve two consecutive terms in the same office.

3. Vacancies. A vacancy shall be filled by the President of the Navajo Nation from a slate presented by a nominating committee elected by the Board of Directors. The individual appointed shall serve for the remainder of the term of the member he or she replaces.

No name shall be placed in nomination without the consent of the nominee.

4. Duties and Powers. Officers of the Crimestoppers Program shall perform the duties and exercise the powers prescribed by this Plan of Operation, the parliamentary authority adopted herein, and those assigned by the Board or which normally pertain to the office. These duties and powers shall include but not be limited to the following:

a. The Chairperson shall:

(1) Be the principal officer of the Crimestoppers Program.

(2) Preside at all meetings of the Board of Directors and the Executive Committee.

(3) Cosign all checks, promissory notes and contracts.

(4) Appoint standing committee chairs and members, except for the nominating committee and create special committees and chairpersons and members thereof as the need arises.

(5) Be an ex-officio member of every committee except the nominating committee.

b. The Vice-Chairperson shall:

(1) Assume such duties as may be assigned by Chair, the Board of Directors or the Executive Committee.

(2) In the absence of the Chair, preside at all Board of Directors and Executive Committee meetings.

(3) In the absence of the Chair, create special committees and appoint chairpersons and members thereof as the need arises, fill vacancies on standing committees except for the nominating committee.

c. The Secretary shall:

(1) Record the proceedings of all meetings of Board of Directors and Executive Committee.

(2) Provide each member of the Board with a copy of the Minutes of each Board of Directors meeting.

(3) Assume such duties as may be assigned by the Chairperson of the Board, the Board of Directors or the Executive Committee.

d. The Treasurer shall:

(1) Be custodian of all funds.

(2) Make a financial report at each meeting of the Board of Directors.

(3) Cosign all checks, promissory notes and contracts.

(4) Disburse rewards as authorized by the Board of Directors, after reasonably satisfying him/herself as to the identity of the recipient.



D. Committees.

1. Standing Committees. There shall be standing committees to deal with the following subjects:

- a. Fund raising;
- b. History and records;
- c. Publicity; and
- d. Standing rules.

Additional committees may be created by amendment to this Plan of Operation. The Committee Chairpersons shall be members of the Board of Directors, but additional members need not be.

2. Special Committees. Special Committees may be created by the Chairperson or the Board of Directors. The Chairpersons shall be members of the Board, but additional members need not be.

3. Executive Committee. There shall be an Executive Committee composed of the Chairperson of the Board and four officers and one additional Director, elected by the Board at the first regular Board meeting following the annual meeting. The Executive Committee, in an emergency, shall have all the powers of the Board between meetings, except the power to amend this Plan of Operation, to dissolve the Crimestoppers Program, or remove a member of the Board. Meetings may be called by the Chairperson or by any two members of the Committee and three members shall constitute a quorum.

**History**

ACAP-51-84, April 12, 1984.

**§ 1364. Contributions and depositories**

A. Contributions. Any Contributions, bequests or gifts made to the Crimestoppers Program shall be accepted or collected and deposited only in such manner as shall be designated by the Board of Directors.

B. Depositories. The Board of Directors shall determine what depositories shall be used by Navajo Nation Crimestoppers Program. All checks and orders for the payment of money from said depositories shall bear the signature of the Chairperson of the Board and shall be countersigned by the treasurer.

**History**

ACAP-51-84, April 12, 1984.

**Cross References**

Gifts, authority of President of Navajo Nation to accept, see 2 N.N.C. § 1010.

**§ 1365. Contracts and debts**

All contracts and evidences of debt may be executed only as directed by the Board of Directors. The Chairperson and the Treasurer shall execute, in the name of the Navajo Nation Crimestoppers Program, all contracts or other instruments so authorized by the Board of Directors and approved by the Budget and Finance Committee of the Navajo Nation Council.

**History**

ACAP-51-84, April 12, 1984.

**Cross References**

Government Services Committee oversight, see 2 N.N.C. § 341 (B).

**§ 1366. Financial examination**

An annual examination of the financial accounts of the Navajo Nation Crimestoppers Program shall be made by an independent auditor appointed by the Chairperson of the Board with the advice and consent of the Board.

**History**

ACAP-51-84, April 12, 1984.

**§ 1367. Fiscal year**

The Crimestoppers Program shall operate on a fiscal year beginning October 1st and ending September 31st of each year.

**History**

ACAP-51-84, April 12, 1984.

**§ 1368. Parliamentary authority**

Robert's Rules of Order, newly revised, shall be the parliamentary authority for all matters or procedures not specifically covered by the Articles of Incorporation, these Bylaws, or by special rules of procedure adopted by the Board of Directors.

**History**

ACAP-51-84, April 12, 1984.

**§ 1369. Amendments**

This Plan of Operation may be amended, from time to time, by the Government Services Committee of the Navajo Nation Council.

**History**

ACAP-51-84, April 12, 1984.

**Note.** Throughout the Plan of Operation for the Crimestoppers Program slight revisions were made for statutory form, clarity and grammatical form.

### **Subchapter 17. Navajo Nation Division of Transportation**

#### **§ 1370. Establishment**

The Navajo Nation Division of Transportation (NNDOT) is established within the Executive Branch of the Navajo Nation government.

#### **History**

CJY-21-09, July 21, 2009.

#### **§ 1371. Purpose**

The purpose of the Navajo Nation Division of Transportation is to exclusively administer the Navajo Nation transportation programs within the Navajo Nation, to provide an effective and efficient transportation system, to ensure the operation and improvement of the transportation system and to provide the necessary resources to accomplish the objectives herein. The Division shall operate pursuant to a plan of operation as recommended by the Transportation and Community Development Committee and approved by the Government Services Committee.

#### **History**

CJY-21-09, July 21, 2009.

### **Subchapter 18. [Reserved]**

### **Subchapter 19. Division of Community Development**

#### **History**

GSCS-70-94, September 7, 1994, adopted a Master Plan of Operation for the Division of Community Development and rescinded GSCO-60-91.

GSCS-34-92 amended the Plan of Operation for Design and Engineering Services in the Division of Community Development.

GSCO-60-91 adopted a comprehensive Plan of Operation for the Division of Community Development. By this resolution ACO-137-84, ACJA-2-85, ACJA-385, ACAP-59-35, ACMA-42-85, ACJN-106-85, ACJA-20-87, ACJY-135-89, ACJA-1-90, and all other inconsistent Advisory Committee resolutions were rescinded.

ACJA-1-90, created the Community Planning Department in the Division of Community Development.

ACAP-89-88, April 21, 1988; amended ACMA-42-85 (Capital Improvement Program).

ACJA-20-87, January 7, 1987, established the Department of Transportation in the Division of Community Development.

ACJA-2-85 adopted a Plan of Operation for Navajo Housing Services Department.

ACMA-42-85, March 13, 1985 adopted a Plan of Operation for the Capital Improvement Program within the Division of Community Development.

ACJN-106-85 rescinded ACO-177-83 and adopted a new Plan of Operation for Navajo Revenue Sharing.

CS-45-84; the 1985 budget included the Chapter claims settlement monies in the Revenue Sharing Office.

ACO-177-83 adopted a Plan of Operation for the Navajo Revenue Sharing Office.

ACS-116-80 established the Housing Services Department in the Division of Community Development.

The Office of Financial Policy Analysis, previously §§ 1451-1454 of this title was discontinued by the 1978 Budget.

CJA-20-74, created the Office of Navajo Revenue Sharing, previously Article I of this Subchapter. The 1978 Budget established the Division of Community Development at § 1451 *et seq.* of this title.

#### **§ 1451. Establishment**

The Division of Community Development (DCD) is established within the Executive Branch of the Navajo Nation government.

#### **History**

GSCS-70-94, September 7, 1994.

#### **§ 1452. Purposes and objectives**

The purposes of the Division of Community Development shall be:

A. To assist communities to become self-sufficient and self-governing entities responsible for working with District, Agency, and central offices;

B. To improve the standard of living for Navajo families and individuals by facilitating increased construction of new homes and rehabilitation of existing homes;

C. To provide infrastructure planning and development for future growth of communities; and

D. To foster the growth of communities by adopting the most current economical and technical advances with limited governmental involvement.

#### **History**

GSCS-70-94, September 7, 1994.

**§ 1453. Personnel and organization**

A. The Navajo Division of Community Development shall be administered by a Division Director, who shall be appointed by the President of the Navajo Nation, confirmed by the Navajo Nation Council, and who shall serve at the pleasure of the President of the Navajo Nation. The Division Director shall hire personnel as may be deemed necessary to carry out the purposes of the Division and as funds are available. All personnel shall be employed and compensated in accordance with the applicable Navajo Nation Personnel Policies Manual.

B. The Division of Community Development shall consist of 10 offices: Division Administration, four Departments and five agencies to execute the Division's purpose. The Departments may consist of sections, programs, and agencies to accomplish the Department purpose. The four departments and five agencies are as follows:

1. Division-Administration;
2. Capital Improvement Office;
3. Design and Engineering Services Department;
4. Community Housing and Infrastructure Department;
5. Solid Waste Management Program;
6. Local Governance Support Center-Fort Defiance Agency;
7. Local Governance Support Center-Eastern Agency;
8. Local Governance Support Center-Chinle Agency;
9. Local Governance Support Center-Tuba City Agency;
10. Local Governance Support Center-Shiprock Agency;

**History**

CJY-21-09, July 21, 2009.

GSCJA-05-08/A, January 15, 2008. Amended Subsection B.

GSCMA-13-00, March 7, 2000.

GSCS-70-94, September 7, 1994.

**§ 1454. Authority, duties and responsibilities**

The Division Director of the Division of Community Development shall have the authority for the overall Division's operational planning and direction.

The Division Director shall have the following duties and responsibilities:

A. Executive directives of the President of the Navajo Nation, Navajo Nation Council, and the Transportation and Community Development Committee.

B. Provide written monthly and/or quarterly reports to the Office of the President, Transportation and Community Development Committee of the Navajo Nation Council, annual reports to the Navajo Nation Council, and any other reports deemed necessary.

C. Promulgate Division program policies, time frames and other guidelines to ensure the proper and timely implementation of Division projects.

D. Establish and maintain partnership with local, county, state, federal entities and other authorities on matters related to the objectives of the Division.

E. Provide effective overall management and financial direction to Division departments and programs.

F. Delegate authority pertaining to the operation of the Division and its program to subordinate directors of the Division, to the extent permitted by the laws and policies of the Navajo Nation, as appropriate.

G. Negotiate written agreements on behalf of the Division relevant to community development for oversight committee's recommendation.

H. Seek external funding for programs and projects to enhance community development.

I. Recommend the creation, merger, separation, amendment or abolishment of programs, or specific functions within the Division in accordance with applicable Navajo Nation laws.

J. Recruit, select, supervise, conduct employee performance evaluation, and recommend reclassification of positions for the Administration Staff and Department and Program Directors, in accordance with Personnel Policies Manual of the Navajo Nation.

#### **History**

GSCMA-13-00, March 7, 2000.

GSCS-70-94, September 7, 1994.

#### **§ 1455. Legislative oversight**

Pursuant to 2 N.N.C. §§ 421 and 423 *et seq.*, the Division of Community Development shall operate under the legislative oversight of the Transportation and Community Development Committee of the Navajo Nation Council.

#### **History**

GSCMA-13-00, March 7, 2000.

GSCS-70-94, September 7, 1994.

#### **§ 1456. Amendments**

This Plan of Operation may be amended from time to time by the Government Services Committee of the Navajo Nation Council upon the recommendation of the Transportation and Community Development Committee of the Navajo Nation Council.

#### **History**

GSCMA-13-00, March 7, 2000.

GSCS-70-94, September 7, 1994.

#### **Subchapter 20. [Reserved]**

#### **Subchapter 21. Division of Economic Development**

#### **History**

CAP-36-96, April 18, 1996.

EDCAP-30-92, a Plan of Operation of the Navajoland Tourism Department was adopted.

BFO-44-92 established a revolving account for the Navajoland Tourism Department.

EDCAP-30-92 recommended Government Services Committee approve a new Plan of Operation for Division of Economic Development and that ACAU-196-87 be repealed. This has not been done.

EDCS-88-90, in setting up a revolving account established the Industrial and Tourism Development Department within the Economic Development Division.

EDCJA-14-89, January 27, 1989, the Division was directed to present a new Plan of Operation for the Navajo Wool and Mohair Industries to the Advisory Committee. This was never done.

ACAU-162-88, August 1, 1988, adopted a Plan of Operation for the Navajo Tourism Department.

ACAU-196-87 adopted the Commission for Accelerating Navajo Development Opportunities (CANDO) under the Chairperson as successor for the Division of Economic Development. All programs and departments in the Division with the exception of programs relating to business regulation and non-business lending assistance were transferred to CANDO.

The Revenue Sharing provisions previously codified at Subchapter 21 were superseded by ACJN-106-85, June 12, 1985, and incorporated in the Plan of Operation for the Division of Community Development at 2 N.N.C. §§ 1451 et

seq., now deleted. See History at Subchapter 19.

ACN-142-82, November 15, 1982, amended the Navajo Wool Growers Marketing Program Plan of Operation.

ACMA-37-78, March 29, 1978, adopted a new Plan of Operation for the Navajo Wool Growers Marketing Program and rescinded CO-56-73.

ACMY-144-75, May 28, 1975.

CO-56-73, October 17, 1973, established the Navajo Wool Growers Marketing Program.

CJN-60-71, June 8, 1971, the Navajo Nation government was restructured and the 1972 budget justifications were authorized as the Plans of Operation for the various departments. It was stated at the time that all other inconsistent resolutions were no longer controlling. At that time the Office of Program Development was established with Navajo Tourism Development, Navajo Small Business Development, Governmental Relations Section, Industrial & Economic Development, and a Planning and Development Section.

**Note.** There is no comprehensive Plan of Operation for the Division of Economic Development.

#### **§ 1501. Establishment**

The Navajo Division of Economic Development is hereby established as a Division of the Executive Branch of the Navajo Nation Government.

#### **History**

CAP-36-96, April 18, 1996.

#### **§ 1502. Purposes**

The purpose of the Navajo Division of Economic Development shall be to provide an environment within the Navajo Nation that is conducive to promoting and developing businesses in the commercial, tourism, industrial and other sectors of the Navajo economy, thereby creating job and business opportunities.

#### **History**

CAP-36-96, April 18, 1996.

#### **§ 1503. Personnel**

The Navajo Division of Economic Development shall be administered by an Executive Director, who shall be appointed by the President of the Navajo Nation, with the consent of the Navajo Nation Council, and who shall serve at the pleasure of the President of the Navajo Nation. The Executive Director shall cause to be hired all such personnel as may be deemed necessary to carry out the purposes of the Division. All personnel shall be subject to the applicable Personnel Policies and Procedures of the Navajo Nation.



### **History**

CAP-36-96, April 18, 1996.

### **§ 1504. Organization**

The Navajo Division of Economic Development shall be comprised of such programs, quasi-enterprises and administrative components as may be deemed necessary by the Executive Director to fulfill its purposes, subject to legislative review and approval of the Plan of Operation of the Division.

### **History**

CAP-36-96, April 18, 1996.

### **§ 1505. Legislative Oversight**

The Navajo Division of Economic Development shall operate under the legislative oversight of the Economic Development Committee of the Navajo Nation Council, pursuant to the powers granted that Committee in 2 N.N.C. § 721 *et seq.* The Division shall operate only pursuant to a Plan of Operation approved by the Economic Development Committee and the Government Services Committee of the Navajo Nation Council.

### **History**

CAP-36-96, April 18, 1996.

### **§ 1506. Amendments**

The enabling legislation for the Navajo Division of Economic Development shall be amended by the Navajo Nation Council upon the recommendation of the Economic Development Committee of the Navajo Nation Council.

### **History**

CAP-36-96, April 18, 1996.

## **Subchapter 22. Water Rights Commission**

### **§ 1551. Establishment**

There is hereby established the Navajo Nation Water Rights Commission (herein referred to as the "Commission") in the Executive Branch of the Navajo Nation Government.

### **History**

CAP-39-02, April 19, 2002.

### **§ 1552. Purposes**

The purpose of the Commission is to ensure that the water rights of the

Navajo Nation are vigorously pursued, effectively coordinated, and to enhance the communication between all entities engaged in water rights efforts on behalf of the Navajo Nation.

#### **History**

CAP-39-02, April 19, 2002.

#### **§ 1553. Organization**

The organization of the Navajo Nation Water Rights Commission shall be set forth in the Plan of Operation adopted by the Government Services Committee upon recommendation of the Resources Committee of the Navajo Nation Council.

#### **History**

CAP-39-02, April 19, 2002.

#### **Cross References**

GSCAP-07-04, April 14, 2004. Amending Resolution GSCJN-35-02 and Approving the Revised Plan of Operation for the Navajo Nation Water Rights Commission.

#### **§ 1554. Legislative Oversight**

The Commission shall operate under the legislative oversight of the Resources Committee of the Navajo Nation Council. The Commission shall operate pursuant to a Plan of Operation recommended by the Resources Committee of the Navajo Nation Council and adopted by the Government Services Committee of the Navajo Nation Council.

#### **History**

CAP-39-02, April 19, 2002.

#### **§ 1555. Amendments**

The enabling legislation for the Commission may be amended from time to time by the Navajo Nation Council by majority vote upon the recommendation of the Resources Committee and Government Services Committee of the Navajo Nation Council.

#### **History**

CAP-39-02, April 19, 2002.

### **Subchapter 23. Division of Health**

#### **History**

Previously §§ 1601-1605 of this title, the Water Rights Office was discontinued by the 1978 Budget and organization chart.

By CO-65-77, the 1978 budget changed the department name from Health and Welfare Department to Tribal Assistance and Projects Department, substituted Division of Social Welfare for other Social Services Programs, and established a Division of Health Improvement Services.

CF-20-77 established the Office of Health Improvement Services.

ACAU-142-60, August 11, 1960 established a Health and Welfare Department responsible to the Director.

#### **§ 1601. Establishment**

The Navajo Division of Health is hereby established as a Division of the Executive Branch of the Navajo Nation Government.

#### **History**

CJY-70-95, July 21, 1995.

#### **§ 1602. Purposes**

The purposes of the Navajo Division of Health shall be:

A. To provide to the Navajo people such direct health care services as are approved and authorized by the Navajo Nation Council; and

B. To ensure the highest quality of overall health care for the Navajo people by coordinating with the Indian Health Service and other federal, state and private entities and the appropriate public health and quality assurance regulatory authority.

#### **History**

CJY-70-95, July 21, 1995.

#### **§ 1603. Personnel**

The Navajo Division of Health shall be administered by an Executive Director and Deputy Director. The Executive Director shall be appointed by the President of the Navajo Nation, with the approval and recommendation of the Health and Social Services Committee and the consent of the Navajo Nation Council and shall serve at the pleasure of the President of the Navajo Nation. The Executive Director shall cause to be hired a Deputy Director and such other personnel as may be deemed necessary to carry out the purposes of the Division. All personnel, other than the Executive Director, shall be subject to the Personnel Policies and Procedures of the Executive Branch of the Navajo Nation.

#### **History**

CJY-70-95, July 21, 1995.

#### **§ 1604. Organization**

The Navajo Division of Health shall be comprised of such departments,

programs, offices and administrative components as may be deemed necessary by the Executive Branch to fulfill its purposes, subject to legislative review and approval of the Division's Plan of Operation.

#### **History**

CJY-70-95, July 21, 1995.

#### **§ 1605. Legislative Oversight**

The Navajo Division of Health shall operate under the legislative oversight of the Health and Social Services Committee of the Navajo Nation Council, pursuant to the powers granted the Committee in 2 N.N.C. §§ 191 and 451 *et seq.* The Division shall operate pursuant to a Plan of Operation approved by the Health and Social Services Committee and the Government Services Committee of the Navajo Nation Council.

#### **History**

CJY-70-95, July 21, 1995.

#### **§ 1606. Amendments**

The enabling legislation for the Navajo Division of Health is subject to amendment, revision and other necessary modification by the Navajo Nation Council with review, input and recommendation by the Health and Social Services Committee of the Navajo Nation Council and the Navajo Division of Health.

#### **History**

CJY-70-95, July 21, 1995.

### **Subchapter 24. [Reserved]**

### **Subchapter 25. Division of Social Services**

#### **History**

CJA-03-01, January 24, 2001.

On January 14, 1992, the Health and Social Services Committee of the Navajo Nation Council recommended the amendment of the enabling legislation for the Division of Social Services codified at 2 N.N.C. § 1651 *et seq.*, and further recommended the approval of a new Plan of Operation for the Division of Social Services by the Government Services Committee. Neither the Government Services Committee nor the Navajo Nation Council have acted upon the 1992 recommendation of the Health and Social Services Committee.

ACJA-5-81 reconfirmed the Division of Social Welfare as the Navajo Nation's agency responsible for implementing the provisions of the Indian Child Welfare Act of 1978, P.L. 96-608.

The Office of Law Enforcement, formerly § 1651 of this title, was redesignated

the Division of Public Safety by the 1978 Budget, at page XI-I. The provisions relating to the Division of Public Safety are codified 2 N.N.C. § 1351 *et seq.*

ACMA-18-78 delegated the responsibility of providing social services to needy Navajo individuals to the Division of Social Welfare as the key agency for the Navajo Nation in Social welfare programming and family and child services.

By CO-65-77, adopting the 1978 Budget, the Navajo Government was reorganized. A Division of Social Welfare was established in place of other Social Services Programs.

CF-77-74, approved a Plan of Operation for the Navajo Office of Social Services within the Division of Human Development which was subsequently amended by ACMY-77-74, May 15, 1974.

ACAU-142-60, August 11, 1960 established a Health and Welfare Department responsible to the Director, other Social Services Programs.

#### **§ 1651. Establishment**

There is hereby established the Navajo Division of Social Services within the Executive Branch of the Navajo Nation.

#### **History**

CJA-03-01, January 24, 2001.

#### **§ 1652. Purposes**

The purpose of the Navajo Division of Social Services shall be to provide the Navajo people with such essential social services as approved and authorized by the Navajo Nation Council and to ensure the highest quality of social welfare programs for the Navajo people by coordinating with the Bureau of Indian Affairs and other federal, state and private entities.

#### **History**

CJA-03-01, January 24, 2001.

#### **§ 1653. Personnel**

The Navajo Division of Social Services shall be administered by an Executive Director whose appointment shall be made by the President of the Navajo Nation and confirmed by the Navajo Nation Council upon recommendation of the Health and Social Services Committee of the Navajo Nation Council and who shall serve at the pleasure of the President of the Navajo Nation. The Executive Director may employ a Deputy Director and shall employ such other personnel as may be deemed necessary to carry out the purposes of the Division. All personnel shall be subject to the Personnel Policies and Procedures of the Executive Branch of the Navajo Nation.

#### **History**

CJA-03-01, January 24, 2001.

#### **§ 1654. Organization**

The Navajo Division of Social Services shall be comprised of such Departments, Programs, Offices and administrative components as may be deemed necessary by the Executive Director to fulfill its purpose, subject to legislative review and approval of the Division's Plan of Operation.

#### **History**

CJA-03-01, January 24, 2001.

#### **§ 1655. Legislative Oversight**

The Navajo Division of Social Services shall operate under the legislative oversight of the Health and Social Services Committee of the Navajo Nation Council, pursuant to 2 N.N.C. § 451 *et seq.* The Division shall operate pursuant to a Plan of Operation approved by the Health and Social Services Committee and the Government Services Committee of the Navajo Nation Council.

#### **History**

CJA-03-01, January 24, 2001.

#### **§ 1656. Amendments**

Sections 1651 through 1655 may be amended from time to time by the Navajo Nation Council upon recommendation by the Health and Social Services Committee of the Navajo Nation Council after consultation with the Navajo Division of Social Services.

#### **History**

CJA-03-01, January 24, 2001.

### **Subchapter 26. [Reserved]**

### **Subchapter 27. Division of Human Resources**

#### **History**

The Division of Human Resources was formerly the Division of Labor.

GSCO-63-91 adopted the Plan of Operation for the Navajo Nation Band Program within the Division of Human Resources, initially established pursuant to ACMY-196-71. CS-57-89 separated the Navajo Tribal Band Program from the Office of Navajo Women and placed it under the Division of Human Resources.

GSCO-59-91 adopted the Plan of Operation for the Navajo Occupational Safety and Health Administration within the Division of Human Resources, initially established pursuant to ACAP-85-87.

GSCS-54-91 adopted the Plan of Operation for the Office of Navajo Women and

Families within the Division of Human Resources. See now 2 N.N.C. § 1121, Navajo Women's Commission.

GSCAU-49-91 adopted the amended Plan of Operation for the Department of Navajo Veterans' Affairs within the Division of Human Resources. CNIA-25-71 initially established the Department of Navajo Veterans' Affairs within the Executive Branch. The Plan of Operation for the Department of Navajo Veterans' Affairs was first adopted by ACJY-91-82 which was subsequently rescinded by ACAU-104-84 and ACJY-167-87. ACJY-91-82 was also rescinded by ACNIA-36-88 which amended ACJY-167-87.

GSCJY-39-91 adopted the amended Plan of Operation for the Office of Navajo Labor Relations within the Division of Human Resources established pursuant to CJA-4-72, as amended by ACJY-134-86 and ACJY-159-87.

GSCJN-35-91 adopted the Plan of Operation for the Public Employment Program within the Division of Human Resources. GSCJN-35-91 amended the Plan of Operation for the Chapter Support Services Department's Plan of Operation into which the Public Employment Program had been originally incorporated pursuant to ACJY-111-86. In adopting the Plan of Operation for the Chapter Support Services Department, ACJY-111-86 also rescinded ACJA-3-85 which adopted the Public Employment Program's first Plan of Operation.

GSJN-31-91 adopted the Plan of Operation for the Navajo Department of Employment and Training within the Division of Human Resources and rescinded ACJY-161-87 which approved the original Plan of Operation for the Navajo Department of Employment and Training.

GSCMA-20-91 directed that the "Personnel Policies Manual" included as part of the amended Plan of Operation for the Department of Personnel Management under 2 N.N.C. § 2351 *et seq.*, as adopted by GSCN-57-90, shall become effective on April 1, 1991. GSCMY-30-94 approved the amendment to the "Personnel Policies Manual" to include provisions for medical and family leave.

GSCJA-3-91 adopted the Plan of Operation for the Navajo Tribal Retirement Program within the Division of Human Resources. GSCN-57-90 adopted the amended Plan of Operation for the Department of Personnel Management, within the Division of Human Resources, then codified at 2 N.N.C. § 2351 *et seq.*, thereby amending the Plan of Operation of the Department of Personnel Management pursuant to CJY-43-76; amended the Personnel Policies and Procedures of the Navajo Tribe pursuant to ACJN-297-73; and amended the Personnel Policies and Procedures of the Navajo Tribe pursuant to CAU-50-59, which established the Department of Personnel Management and adopted the original version of the Personnel Policies of the Navajo Nation.

GSCAU-43-90 adopted the Plan of Operation for the Office of Broadcast Services within the Division of Human Resources.

GSCAU-39-90 adopted the Plan of Operation for the Division of Human Resources.

CS-49-88 created a new Division of Human Resources thus replacing the former Division of Labor.

ACJY-161-87 repealed CF-22-75 and the amendments to the Plan of Operation for

the Division of Labor under Page X-1, 1978 Tribal Budget adopted pursuant to CO-65-77, and approved further amendments to the Plan of Operation for the Division of Labor.

ACD-181-82 adopted the Plan of Operation for the Navajo Office of Census and Vital Statistics, which was subsequently incorporated into the Division of Human Resources as the Navajo Office of Vital Records pursuant to GSCAU-3990. CAU-50-59 established the Navajo Office of Census and Statistics Services for which no Plan of Operation was adopted. ACAU-163-77 adopted a Plan of Operation for the Central Records Office.

CF-22-75 established the "Navajo Manpower Administration" which was renamed the "Office of Labor" in 1976 which Plan of Operation was originally codified at 15 N.N.C. §§ 1-6. The Office of Labor was subsequently redesignated the "Division of Labor" which Plan of Operation was amended under Page X-1, 1978 Tribal Budget, adopted pursuant to CO-65-77 and then codified at 2 N.N.C. § 1701.

### **§ 1701. Establishment**

There is established the Division of Human Resources within the Executive Branch of the Navajo Nation government.

#### **History**

CJY-39-05, July 21, 2005.

GSCAU-39-90, August 14, 1990.

### **§ 1702. Purpose**

The Division of Human Resources shall consolidate all human resources programs and activities of the Navajo Nation government within a single division to facilitate effective management and delivery of human resource programs and services in a comprehensive manner.

#### **History**

CJY-39-05, July 21, 2005.

GSCAU-39-90, August 14, 1990.

### **§ 1703. Personnel and organization**

#### **A. Personnel.**

1. There is hereby established the position of the Executive Director and such other positions that are necessary and provided in the budget approved by the Navajo Nation Council for the Division of Human Resources.

2. All Division of Human Resources personnel shall be hired and compensated pursuant to the policies and guidelines of the Navajo Nation Personnel Policies and Procedures Manual, except the Executive Director who shall be appointed by and serve at the pleasure of the President of



the Navajo Nation and confirmed by the Navajo Nation Council.

B. Organization.

1. The Division of Human Resources shall be comprised of programs and administrative components as may be deemed necessary subject to legislative review and approval of the department's and/or program's plans of operation.

2. The Division of Human Resources shall consist of the following departments and offices:

- a. Department of Personnel Management.
- b. Navajo Department of Workforce Development.
- c. Navajo Department of Retirement Services.
- d. Department of Veterans Affairs.
- e. Office of Broadcast Services.
- f. Office of Navajo Labor Relations.
- g. Office of Navajo Women and Families.
- h. Navajo Office of Vital Records.
- i. Navajo Occupational Safety and Health Administration.
- j. Department of Child Support Enforcement.
- k. Staff Development and Training Program.
- l. Navajo Nation Band.

**History**

CJY-39-05, July 21, 2005.

GSCAU-39-90, August 14, 1990.

**§ 1704. Responsibility and authority**

A. The Division of Human Resources provides centralized and decentralized human resource program services to the Navajo Nation government. The Division management is accountable to the President of the Navajo Nation for performance of its functional responsibilities in an effective and efficient manner. All management personnel within the Division shall have sufficient authority established by their plans of operation to perform their job responsibilities not inconsistent with the Master Plan or Navajo law.

B. The Executive Director of the Division of Human Resources shall have the following responsibilities and authorities:

1. Be responsible for the efficient management and administration of the Division of Human Resources and its departments and programs;

2. Provide quarterly reports of all activities within the Division of Human Resources and its departments and programs to the President of the Navajo Nation and the Human Services Committee of the Navajo Nation Council;

3. Supervise and direct all department directors and program managers within the Division of Human Resources;

4. Develop, recommend and implement (upon adoption by the appropriate Navajo Nation legislative body) policies, rules and regulations governing matters delegated to the Division of Human Resources and its departments and programs;

5. Set priorities and participate in overall Division of Human Resources departments' and programs' performance based budget planning process;

6. Conduct periodic performance review of Division of Human Resources departments and programs for effectiveness and progress to ensure compliance with the annual fiscal year performance based budget requirements;

7. Coordinate with Division of Human Resources departments and programs, administrative, financial and operating policies for the Division of Human Resources; and

8. Represent the Division of Human Resources at executive level planning sessions.

#### **History**

CJY-39-05, July 21, 2005.

GSCAU-39-90, August 14, 1990.

#### **§ 1705. Legislative oversight**

The Division of Human Resources shall operate under the legislative oversight of the Human Services Committee of the Navajo Nation Council.

#### **History**

CJY-39-05, July 21, 2005.

GSCAU-39-90, August 14, 1990.

#### **§ 1706. Amendments**

Sections 1701 through 1706 may be amended by the Government Services Committee of the Navajo Nation Council upon the recommendation of the Human

Services Committee of the Navajo Nation Council.

#### **History**

CJY-39-05, July 21, 2005.

GSCAU-39-90, August 14, 1990.

#### **Subchapter 28. [Reserved]**

#### **Subchapter 29. [Reserved]**

#### **History**

CS-28-83, September 28, 1983.

This Subchapter formerly governing the establishment, purposes, powers and operations of the Division of Chapter Development, were derived from ACD-157-81, December 9, 1981. See 2 N.N.C. § 4041 *et seq.*, and § 4061 *et seq.* See 2 N.N.C. § 1451, *et seq.*, Division of Community Development.

#### **Subchapter 30. [Reserved]**

#### **Subchapter 31. Department of Diné Education**

##### **§ 1801. Establishment**

A. There is established the Department of Diné Education within the Executive Branch of the Navajo Nation government.

B. 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.

#### **History**

CJY-37-05, July 19, 2005.

GSCJN-12-04, June 14, 2004.

GSCAP-35-01, April 13, 2001.

GSCO-81-95, October 13, 1995.

GSCJA-2-95, January 9, 1995.

##### **§ 1802. Staffing and organization**

A. 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. The Navajo Nation Superintendent of Schools is appointed by the Navajo Nation Board of Education, subject to confirmation by the Navajo Nation Council.

B. The Navajo Nation Superintendent of Schools shall serve at the pleasure of the Navajo Nation Board of Education. All personnel other than the Navajo Nation Superintendent of Schools shall be subject to all of the Personnel Policies and Procedures of the Navajo Nation.

C. The Department shall be comprised of such programs and administrative components as may be deemed necessary, subject to availability of appropriations, and legislative approval of Department and/or program plans of operation.

### **History**

CJY-37-05, July 19, 2005.

GSCJN-12-04, June 14, 2004.

GSCAP-35-01, April 13, 2001.

GSCO-81-95, October 13, 1995.

GSCJA-2-95, January 9, 1995.

**Note.** Renumbered; previously at 2 N.N.C. § 1804.

### **§ 1803. Responsibility and authority**

In carrying out its responsibilities the Department, through the Superintendent of Schools, is authorized and directed to:

A. Establish cooperative arrangements with other divisions and programs within the Navajo Nation and with education organizations and entities.

B. 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.

C. 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.

D. 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.

E. Comply with federal and, where appropriate, state requirements regarding confidentiality of records.

F. Report the results of its inquiries to the Education 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.

G. Make recommendations in its reports for the improvement of Navajo education.

H. Upon a directive from the Board, assume control of community controlled schools in situations where problems have been identified that hamper the education of students in the school and the problems are determined to be beyond the school's ability to resolve.

I. Report quarterly to the Board on the state of Navajo education.

J. 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.

K. 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.

#### **History**

CJY-37-05, July 19, 2005.

GSCJN-12-04, June 14, 2004.

GSCAP-35-01, April 13, 2001.

GSCO-81-95, October 13, 1995.

GSCJA-2-95, January 9, 1995.

**Note.** Renumbered; previously at 2 N.N.C. § 1805.

#### **United States Code**

Educational programs, administration by local educational agencies, see 20 U.S.C. § 1232d *et seq.*

Indian self-determination and educational assistance, see 25 U.S.C. § 450 *et seq.*

**§ 1804. Legislative oversight**

The Education Committee of the Navajo Nation Council is the oversight committee for the Department of Diné Education pursuant to 2 N.N.C. § 484(B) (4).

#### **History**

CJY-37-05, July 19, 2005.

GSCJN-12-04, June 14, 2004.

GSCAP-35-01, April 13, 2001.

GSCO-81-95, October 13, 1995.

GSCJA-2-95, January 9, 1995.

**Note.** Renumbered; previously at 2 N.N.C. § 1806.

#### **§ 1805. Amendments**

Amendments to the enabling legislation for the Department of Diné Education shall only be made by the Navajo Nation Council. The plan of operation for the Department of Diné Education may be amended by the Government Services Committee of the Navajo Nation Council upon the recommendation of the Education Committee of the Navajo Nation Council and at the request of the Navajo Nation Board of Education.

#### **History**

CJY-37-05, July 19, 2005.

GSCJN-12-04, June 14, 2004.

GSCAP-35-01, April 13, 2001.

GSCO-81-95, October 13, 1995.

GSCJA-2-95, January 9, 1995.

**Note.** Renumbered; previously at 2 N.N.C. § 1807.

#### **§ 1806. Promulgation/implementation of rules**

The Department, upon approval of the Navajo Nation Board of Education and Education Committee of the Navajo Nation Council, may promulgate policies, procedures, rules and regulations for all programs within the Department not inconsistent with Navajo Nation, and applicable federal and state laws.

#### **History**

CJY-37-05, July 19, 2005.

GSCAP-35-01, April 13, 2001.

GSCO-81-95, October 13, 1995.

GSCJA-2-95, January 9, 1995.

**Note.** Renumbered; previously at 2 N.N.C. § 1808.

**§§ 1821 to 1823. [Superseded]**

**History**

GSCJA-2-95, January 9, 1995. See 2 N.N.C. § 1801, *et seq.*

**§§ 1831 to 1836. [Superseded]**

**History**

GSCJA-2-95, January 9, 1995. See 2 N.N.C. § 1801, *et seq.*

**Subchapter 32. [Reserved]**

**Subchapter 33. [Reserved]**

**History**

Division of Water and Sanitation was rescinded by ACJY-1 12-83, July 14, 1983, and CS-28-83, September 28, 1983, see History preceding 2 N.N.C. §§ 1901, *et seq.*

**Subchapter 34. [Reserved]**

**Subchapter 35. Division of Natural Resources**

**§ 1901. Establishment**

The Division of Natural Resources is established as a division within the Executive Branch of the Navajo Nation government.

**History**

CAP-41-94, April 20, 1994.

ACAP-57-88, April 13, 1988.

1981 Budget Resolution changed the name of the Division of Natural Resources to the Division of Resources.

ACMA-67-78, May 11, 1978.

1977 Budget Resolution.

1976 Organizational Chart.

## **§ 1902. Purposes**

The purposes of the Division of Natural Resources shall be:

A. To provide for the protection, restoration, conservation, management and sustainable development of all Navajo natural, cultural and historic resources, under the guidance and direction of the people of the Navajo Nation and the Navajo Nation Council.

B. To ensure that the highest quality of natural, cultural and historic resources are available for the enjoyment and use of present and future generations of Navajo People.

### **History**

CAP-41-94, April 20, 1994.

ACAP-57-88, April 13, 1988.

1981 Budget Resolution.

ACMA-67-78, May 11, 1978.

1977 Budget Resolution.

1976 Budget Resolution.

## **§ 1903. Personnel**

The Division of Natural Resources shall be administered by an Executive Director, who shall be appointed by the President of the Navajo Nation upon the confirmation of the Navajo Nation Council and who shall serve at the pleasure of the President of the Navajo Nation. All personnel other than the Executive Director shall be subject to all of the Personnel Policies and Procedures of the Navajo Nation.

### **History**

CAP-41-94, April 20, 1994.

ACAP-57-88, April 13, 1988.

1981 Budget Resolution.

ACMA-67-78, May 11, 1978.

1977 Budget Resolution.

1976 Organizational Chart.

## **§ 1904. Organization**

The Division of Natural Resources shall be comprised of such programs and administrative components as may be deemed necessary, subject to legislative



review and approval of department and/or program Plans of Operation.

#### **History**

CAP-41-94, April 20, 1994.

ACAP-57-88, April 13, 1988.

1981 Budget Resolution.

ACMA-67-78, May 11, 1978.

1977 Budget Resolution.

1976 Organizational Chart.

**Note.** Slightly reworded for statutory and grammatical form.

#### **§ 1905. Legislative oversight**

The Division of Natural Resources shall operate under the legislative oversight of the Resources Committee of the Navajo Nation Council pursuant to 2 N.N.C. § 691 *et seq.* The Division shall operate only pursuant to plans of operation approved by the Resources Committee and the Government Services Committee of the Navajo Nation Council.

#### **History**

CAP-41-94, April 20, 1994.

#### **Subchapter 36. [Reserved]**

#### **History**

CAP-41-94, April 20, 1994, adopted Enabling Legislation for the Division of Natural Resources and repealed and deleted certain Division of Natural Resources' department and program plans of operation from the Navajo Nation Code, including the Division of Water Resources, previously codified at 2 N.N.C. §§ 1921-1925.

ACJA-6-86, January 15, 1986. Amended the Plan of Operation for the Division of Water Resources.

ACJY-112-83, July 14, 1983. Adopted a Plan of Operation for the Division of Water Resources.

#### **Subchapter 37. Environmental Protection Agency**

#### **§ 1921. Establishment**

There is established the Navajo Nation Environmental Protection Agency within the Executive Branch of the Navajo Nation government.

## **History**

CAP-47-95, April 21, 1995. Adopted Enabling Legislation for the Environmental Protection Agency and removed it from within the Division of Natural Resources. Also adopted the Navajo Nation Environmental Policy Act.

GSCJY-50-94, July 13, 1994. Adopted a Plan of Operation for the Environmental Protection Agency.

ACAP-94-76, April 21, 1976.

CAU-72-72, August 10, 1972. Established the Environmental Protection Commission.

**Note.** Previously codified at 2 N.N.C., § 3401 *et seq.*, but redesignated at 2 N.N.C., §§ 1921-1927.

### **§ 1922. Purposes**

The Navajo Nation Environmental Protection Agency is established for the following purposes:

A. To establish on behalf of the Navajo Nation environmental policies which shall govern activities which may have an impact on the environment of the Navajo Nation.

B. To protect the public health and the environment of the Navajo Nation through legislative proposals, monitoring and data collection, rule making as may be authorized by the Navajo Nation Council, enforcement actions, public education, obtaining funding, and other appropriate means.

C. To represent the Navajo Nation with respect to environmental issues and concerns in interactions with federal, state, local and Navajo Nation entities and agencies.

D. To exercise inherent Navajo sovereign authority over the Navajo Nation in part by obtaining primacy for regulation of all activities which may have an impact on the environment within the Navajo Nation.

E. To provide a central repository of information, studies, plans, and statements relating to environmental protection within and near the Navajo Nation for the Navajo Nation government.

## **History**

CAP-47-95, April 21, 1995. Adopted Enabling Legislation for the Environmental Protection Agency and removed it from within the Division of Natural Resources. Also adopted the Navajo Nation Environmental Policy Act.

GSCJY-50-94, July 13, 1994. Adopted a Plan of Operation for the Environmental Protection agency.

ACAP-94-76, April 21, 1976.

CAU-72-72, August 10, 1972. Established the Environmental Protection Commission.

**Note.** Previously codified at 2 N.N.C., § 3401 *et seq.*, but redesignated at 2 N.N.C., §§ 1921-1927.

### **§ 1923. Personnel**

A. The Environmental Protection Agency shall be administered by a Director who shall be appointed by the President of the Navajo Nation, subject to confirmation by the Navajo Nation Council, upon the recommendation of the Resources Committee of the Navajo Nation Council. The Director of the Navajo Nation Environmental Protection Agency shall report directly to the President of the Navajo Nation.

B. The Director is authorized to hire additional professional, technical and clerical positions as needed to carry out the purposes stated herein. These positions shall be filled in accordance with Navajo Nation personnel policies and procedures and within applicable budget rules established for conducting the annual Navajo Nation budget process.

### **History**

CAP-47-95, April 21, 1995. Adopted Enabling Legislation for the Environmental Protection Agency and removed it from within the Division of Natural Resources. Also adopted the Navajo Nation Environmental Policy Act.

GSCJY-50-94, July 13, 1994. Adopted a Plan of Operation for the Environmental Protection Agency.

ACAP-94-76, April 21, 1976.

CAU-72-72, August 10, 1972. Established the Environmental Protection Commission.

**Note.** Previously codified at 2 N.N.C., § 3401 *et seq.*, but redesignated at 2 N.N.C., §§ 1921-1927.

### **§ 1924. Authority**

In implementing the purposes of the Environmental Protection Agency, the Director shall have the power:

A. To adopt, give final approval, and enforce rules, provided that these rules shall be adopted only after notice and comment, pursuant to rules promulgated by the Director and approval of the Resources Committee of the Navajo Nation Council.

B. To issue cease and desist orders, compliance orders or such other orders as the Director shall deem necessary to enforce Environmental Protection Agency regulations to prohibit or to put a stop to activities that may pose an imminent and substantial danger to the public health or the environment.

C. To implement by regulation, rules for administrative appeal of any

adverse action taken by the Navajo Nation Environmental Protection Agency pursuant to the authority of this Section and to issue final agency decisions.

D. To levy civil penalties for each day of violation of any order issued by the Director; provided, however, that any person or entity as defined in 2 N.N.C. § 1925 shall have the right to appeal any civil penalty to the courts of the Navajo Nation as specifically provided in the Chapters administered by the Navajo Nation Environmental Protection Agency. No appeal shall operate to stay an order unless the court determines, after a hearing, that there is no basis in fact to support the order or that the order is not in compliance with applicable law.

E. To take such other actions as may be necessary or appropriate to implement the purposes of the Environmental Protection Agency.

F. To carry out any other powers consistent with the purposes of the Environmental Protection Agency that may be authorized in its Plan of Operation upon recommendation of the Resources Committee and approval of the Government Services Committee of the Navajo Nation Council.

#### **History**

CAP-47-95, April 21, 1995. Adopted Enabling Legislation for the Environmental Protection Agency and removed it from within the Division of Natural Resources. Also adopted the Navajo Nation Environmental Policy Act.

GSCJY-50-94, July 13, 1994. Adopted a Plan of Operation for the Environmental Protection Agency.

ACAP-94-76, April 21, 1976.

CAU-72-72, August 10, 1972. Established the Environmental Protection Commission.

**Note.** Previously codified at 2 N.N.C., § 3401 *et seq.*, but redesignated at 2 N.N.C., §§ 1921-1927.

#### **§ 1925. Jurisdiction**

The Navajo Nation Environmental Protection Agency has regulatory, monitoring, and enforcement authority over all natural resources relating to the quality of the environment within the Navajo Nation, as defined in 7 N.N.C. § 254, and over any person, including but not limited to Navajo citizens, enterprises, corporations, associations, partnerships, Chapters, tribal government entities or other entities; non-Navajo individuals, corporations, associations, partnerships, other entities, successors and assigns; states; counties; local governments and other agencies; and the United States where not prohibited by applicable laws, doing business within or otherwise affecting the environment of the Navajo Nation.

#### **History**

CAP-47-95, April 21, 1995. Adopted Enabling Legislation for the Environmental Protection Agency and removed it from within the Division of Natural Resources.

Also adopted the Navajo Nation Environmental Policy Act.

GSCJY-50-94, July 13, 1994. Adopted a Plan of Operation for the Environmental Protection Agency.

ACAP-94-76, April 21, 1976.

CAU-72-72, August 10, 1972. Established the Environmental Protection Commission.

**Note.** Previously codified at 2 N.N.C., § 3401 *et seq.*, but redesignated at 2 N.N.C. §§ 1921-1927.

### **§ 1926. Legislative oversight**

The Resources Committee of the Navajo Nation Council shall serve as the legislative oversight committee for the Navajo Nation Environmental Protection Agency, pursuant to 2 N.N.C. § 695(B)(13) and this Section.

#### **History**

CAP-47-95, April 21, 1995. Adopted Enabling Legislation for the Environmental Protection Agency and removed it from within the Division of Natural Resources. Also adopted the Navajo Nation Environmental Policy Act.

GSCJY-50-94, July 13, 1994. Adopted a Plan of Operation for the Environmental Protection Agency.

ACAP-94-76, April 21, 1976.

CAU-72-72, August 10, 1972. Established the Environmental Protection Commission.

**Note.** Previously codified at 2 N.N.C., § 3401 *et seq.*, but redesignated at 2 N.N.C., §§ 1921-1927.

### **§ 1927. Amendments**

Sections 1921-1926 may be amended by the Navajo Nation Council, upon recommendation from the Resources Committee and the Government Services Committee of the Navajo Nation Council. Amendments by the Government Services Committee shall be subject to approval by the Resources Committee of the Navajo Nation Council.

#### **History**

CAP-47-95, April 21, 1995. Adopted Enabling Legislation for the Environmental Protection Agency and removed it from within the Division of Natural Resources. Also adopted the Navajo Nation Environmental Policy Act.

GSCJY-50-94, July 13, 1994. Adopted a Plan of Operation for the Environmental Protection Agency.

ACAP-94-76, April 21, 1976.

CAU-72-72, August 10, 1972. Established the Environmental Protection Commission.

**Note.** Previously codified at 2 N.N.C., § 3401 *et seq.*, but redesignated at 2 N.N.C. §§ 1921-1927.

### **Subchapter 38. [Reserved]**

### **Subchapter 39. Department of Justice**

#### **Article 1. Generally**

##### **History**

**Note.** Sections 1961-1963 of this title, relating to the Department of Justice, were formerly codified at 2 N.N.C. §§ 1301, 1993, 1994 respectively.

"Office of General Counsel" was rescinded and all references to such office are now incorporated in the Department of Justice.

##### **§ 1961. Establishment; purpose; composition**

A. There is established the Department of Justice within the Executive Branch of the Navajo Nation government.

B. The purpose of the Department of Justice is to provide legal services to the Navajo Nation government and to administer its programs.

C. The Department of Justice shall consist of the Attorney General, the Deputy Attorney General; the staff budgeted for the Department by the Navajo Nation Council, and the following programs:

1. Office of the Navajo Public Defender;
2. Office of the Prosecutor;
3. Juvenile Justice; and
4. Navajo-Hopi Legal Services.

##### **History**

CF-7-90, February 1, 1990.

CAP-34-93, April 22, 1993 authorized the Office of the Navajo Public Defender and rescinded the Legal Aid and Defender Office.

CF-8-82, February 5, 1982.

1978 Budget.

**Note.** Slightly reworded for purposes of statutory form.

## **§ 1962. Personnel**

A. There is established the position of Attorney General and Deputy Attorney General of the Navajo Nation, and such other positions as may from time to time be budgeted by the Navajo Nation Council or by any other source acceptable to the President of the Navajo Nation.

B. The Attorney General and Deputy Attorney General shall be licensed attorneys. The Attorney General and Deputy Attorney General shall be appointed by the Navajo Nation Council, upon the recommendation of the President, to serve at a negotiated salary. The appointment shall be effective upon the approval of the Navajo Nation Council, for a term concurrent with the term of the President. The Attorney General and Deputy Attorney General shall serve at the pleasure of the Navajo Nation Council. All other attorneys shall serve at a negotiated salary and at the pleasure of the Attorney General.

C. The Deputy Attorney General shall serve in the stead of the Attorney General, with full authority of the Attorney General, in the event of the death, disability, or removal of the Attorney General, until a new Attorney General is approved by the Navajo Nation Council.

D. All other personnel shall be hired and compensated pursuant to usual Navajo Nation Personnel Policies and Procedures.

### **History**

CF-7-90, February 1, 1990.

CMA-6-89, March 1, 1989.

CF-8-82, February 5, 1982.

1978 Budget, page IX-1.

CJA-15-72, January 26, 1972.

## **§ 1963. Authority, responsibilities and duties**

The Attorney General is authorized and directed to:

A. Report and be responsible to the Navajo Nation Council through the President for the accomplishment of the purposes and objectives of the legal needs of the Navajo Nation.

B. On behalf of the Navajo Nation and without prior approval of the Navajo Nation Council, or any Committee thereof, the President or any other official of the Navajo Nation, to negotiate and execute attorney contracts, within the approved Navajo Nation budget for attorneys' fees and expenses, to provide for legal counsel to the Navajo Nation government or any other legal representation deemed necessary to protect the interests of the Navajo Nation.

C. Monitor the work of all retained legal consultants and law firms.

D. Formulate overall administrative and operating policies pertaining to the Department of Justice, and to take such action as the Attorney General shall deem necessary for the accomplishment and enforcement thereof.

E. Exercise supervisory control and direction over all personnel within the Department of Justice.

F. Represent the Department of Justice in executive level planning.

G. Represent the Navajo Nation government regarding its legal interests in the Nation's dealings and relations with all persons and organizations outside the Navajo Nation government.

H. Conduct such special projects and programs as may be assigned.

I. Delegate authority to members of his or her staff.

J. Develop programs and budgets for the Department of Justice of the Navajo Nation.

K. Perform all duties and responsibilities of the office in accordance with the highest standards of legal ethics as required of members of the Navajo Nation Bar Association and by the American Bar Association Code of Professional Responsibility.

#### **History**

CF-7-90, February 1, 1990.

CMA-6-89, March 1, 1989.

CF-8-82, February 5, 1982.

1978 Budget, Page IX-1.

CJA-15-72, January 26, 1972.

#### **§ 1964. Attorney General; Chief Legal Officer**

A. The Attorney General is the Chief Legal Officer of the Navajo Nation and shall have charge of the Department of Justice and of all legal matters in which the Navajo Nation government has an interest.

B. The Attorney General shall render legal services to the Navajo Nation government, including its Chapters, branches, and entities, subject to available resources, as may be required.

C. No division, program, enterprise, or other entity of the Navajo Nation government shall retain or employ legal counsel except as may be approved by the Attorney General. The branches shall not retain or employ legal counsel for external litigation except as may be approved by the Attorney General. Navajo Nation Chapters may employ their own counsel, subject to available funds, under the terms and conditions approved by the Chapter membership.



D. The Attorney General shall adopt reasonable rules and regulations to allow for the hiring of independent and additional outside counsel as needed, as provided in this subpart.

E. The Attorney General may retain private counsel to handle any particular matter or types of matters as he deems appropriate, subject to the availability of funds appropriated for such purposes. Such counsel may be retained to represent the Navajo Nation government in distant forums, to provide specialized legal expertise not available from within the Department of Justice, and to respond to exceptional demand for legal services.

F. The Attorney General shall defend and initiate all actions, including appeals, in which the Navajo Nation is a party, including any action brought in the name of Navajo Nation government officials for conduct arising out of their official duties, and may compromise or settle any action or claim by or against the Navajo Nation government. Before concluding any such compromise or settlement which involves a particular branch, division, department or program, the Attorney General shall consult with such branch, division, department, or program.

Where no branch or division is named, or otherwise particularly involved, the Attorney General shall consult with the President prior to concluding any such compromise or settlement.

G. All communications between elected tribal officials, officers, employees, or agents of the Navajo Nation government and its attorneys shall be protected by the attorney-client privilege and shall not be admissible or discoverable in any judicial or administrative proceeding. No waiver of the attorney-client privilege shall be effective against the Navajo Nation government without the express approval of the Attorney General. The Attorney General is authorized to waive the attorney-client privilege when such waiver will advance the overall legal interests of the Navajo Nation government.

H. If the Attorney General determines that he/she is disqualified from providing legal representation or legal services on behalf of any entity of the Navajo Nation government in relation to any matter, the Attorney General shall give written notification to the entity affected. If the entity has received such notification from the Attorney General, the entity is authorized to make expenditures, subject to available appropriations, to employ attorneys to provide the representation or services.

I. The Attorney General in his or her discretion is authorized to represent an officer or employee of the Navajo Nation against whom a civil action is brought in his or her individual capacity until such time as it is established as a matter of law that the alleged activity or events which form the basis of the complaint were not performed, or not directed to be performed, within the scope or course of the officer's or employee's duty or employment.

#### **History**

CF-7-90, February 1, 1990.

#### **Annotations**

## **1. Construction and application**

"See also 2 N.N.C. § 1964(I) (authorizing the Attorney General to represent an official sued in their personal capacity until 'it is established' as a matter of law that the official's activities were not in the scope of his or her 'duty or employment')[.] We read these provisions to require an explicit determination by the district court that the actions of the official or employee were or were not in the scope of his or her authority before moving forward to consider immunity defenses." *Chapo, et al. v. Navajo Nation, et al.*, No. SC-CV-68-00, slip op. at 11 (Nav. Sup. Ct. March 11, 2004).

### **§ 1965. Opinions of the Attorney General**

A. Any branch, division, department, enterprise, Chapter or other entity of the Navajo Nation government, or any elected official of the Navajo Nation government may request the Attorney General to issue an opinion concerning any question of law relating to their respective entity or offices. No adverse action may be taken by the Navajo Nation government against any official or employee of the Navajo Nation government for conduct taken in reasonable reliance upon the advice given in such an opinion.

B. The Attorney General shall, at least annually, publish the official opinions of the Attorney General. The Attorney General shall provide copies to the President, the Speaker, the Chief Justice, and each delegate of the Navajo Nation Council.

#### **History**

CF-7-90, February 1, 1990.

## **Article 2. Office of the Prosecutor**

#### **History**

**Note.** Sections 1971-1983 of this title, relating to the Office of the Prosecutor, were formerly codified at 2 N.N.C. §§ 1171-1183.

### **§ 1971. Generally**

The Office of the Prosecutor is continued as a department in the Justice Department of the Navajo Nation government, directly under the Office of the Attorney General.

#### **History**

ACS-157-83, September 22, 1983.

CF-8-82, February 5, 1982.

ACF-9-79, February 15, 1979.

**Note.** Slightly reworded for consistency and statutory clarity.

## **§ 1972. Purpose**

The purpose of the Office of the Prosecutor is to prosecute to completion all cases involving alleged violations of the Navajo Nation Code by Indian persons, to conduct investigations and other activities necessary for the conduct of its affairs, and to assume certain responsibilities with respect to civil matters, including extradition and exclusion proceedings.

### **History**

ACS-157-83, September 22, 1983.

ACF-9-79, Exhibit A, February 15, 1979.

**Note.** Slightly reworded for grammatical form.

## **§ 1973. Chief Prosecutor**

A. The Office of the Prosecutor, as established by this article, shall be headed by a Chief Prosecutor, who shall be a member of the Navajo Nation and have original domicile upon the Navajo Reservation, or land under the jurisdiction of the Navajo Nation Courts for a term of six months immediately preceding his or her appointment as Chief Prosecutor.

B. The Chief Prosecutor shall be appointed by the Attorney General and he or she shall serve at his or her pleasure.

C. The Chief Prosecutor shall serve until his or her successor is appointed.

D. Any attorney/advocate positions within the Office of the Prosecutor, other than the Chief Prosecutor's position, shall be appointed by the Chief Prosecutor and shall serve at the pleasure of the Chief Prosecutor. All other personnel shall be hired and compensated pursuant to the Navajo Nation Personnel Policies and Procedures.

### **History**

ACS-157-83, September 22, 1983.

CF-8-82, February 5, 1982.

ACF-9-79, February 15, 1979.

**Note.** Slightly reworded for purposes of statutory clarity.

## **§ 1974. Duties, responsibilities and authority**

The Prosecutor shall:

A. Report to the Attorney General with respect to all activities of the office and be responsible to him or her for all administrative and operational matters not relating to the investigation and prosecution of suspects, criminal defendants and cases.

B. Investigate, prosecute and dispose of all cases within his or her jurisdiction, acting independently and upon his or her own authority within the guidance of law and professional ethics in the performance of his or her duties.

C. Formulate overall administrative and operating policies of the Office of the Prosecutor and take action as he or she shall deem necessary for the accomplishment and enforcement thereof.

D. Exercise supervisory control and direction of all sections under the Office of the Prosecutor.

E. Represent the Office of the Prosecutor in executive level planning.

F. Represent the Navajo Nation government, within the areas of the Prosecutor's responsibility as authorized by the Attorney General.

G. Plan and participate with other areas of law enforcement toward full realization of benefits from federal and state programs for technical and financial assistance.

H. Develop programs and budgets for the Office of the Prosecutor, conduct periodic reviews of program and budget executions of the Office of the Prosecutor and participate in overall program and budget review.

I. Delegate authority to members of the staff.

J. Conduct special programs or projects as may be assigned by the Attorney General not inconsistent with the duties and responsibilities contained herein.

#### **History**

ACS-157-83, September 22, 1983.

CF-8-82, Exhibit B, February 6, 1982.

ACF-9-79, Exhibit A, § 2, February 15, 1979.

**Note.** Slightly reworded for statutory clarity and grammar.

**§§ 1975 to 1977. [Deleted]**

#### **History**

**Note.** §§ 1975-1977, "Personnel"; "Offices; hours" and "Admission to practice; Oath", were deleted from the Code.

#### **§ 1978. Assistance of, and coordination with, other agencies**

A. The Office of the Prosecutor shall have the authority to call upon the Navajo Division of Law Enforcement or any of its personnel for information, records, reports, etc., and to conduct investigations for the Office of the

Prosecutor.

B. The Office of the Prosecutor shall have the authority to call upon all Navajo divisions, enterprises, departments and commissions for assistance in carrying out its work. Such divisions, enterprises, departments and commissions shall provide the Office of the Prosecutor such information and assistance as is necessary to permit the Office of the Prosecutor to carry out its responsibilities and duties under law.

C. The Office of the Prosecutor shall have the authority to call upon United States Governmental Offices serving the Navajo Nation in the name of the Navajo Nation for assistance in carrying out its work.

#### **History**

CF-8-82, February 5, 1982.

ACF-9-79, February 15, 1979.

#### **§ 1979. Investigations**

The Office of the Prosecutor shall have complete authority to initiate and conduct investigations into any alleged violations of the Navajo Nation Code and for the security of the Navajo Nation government, the Navajo Nation Chapter Houses and Officers, the Navajo Nation Courts including the Supreme Court of the Navajo Nation, and any other department, enterprise and entity of the Navajo Nation government.

#### **History**

ACS-157-83, September 22, 1983.

ACF-9-79, February 15, 1979.

**Note.** Slightly reworded for purposes of statutory clarity. Reference to the "Court of Appeals" changed to the "Supreme Court".

#### **§ 1980. Civil case intervention**

The Office of the Prosecutor shall have the authority to intervene in civil matters involving the interests of the Navajo Nation government, and shall further have the authority to initiate civil actions on behalf of the Navajo Nation government in the Courts of the Navajo Nation, against individuals who violate the laws of the Navajo Nation. The Office of the Prosecutor shall have the authority to initiate civil actions seeking restitution on behalf of the Navajo Nation government against individuals who have caused damage to Navajo Nation property or who have deprived the Navajo Nation government of any property belonging to said government.

#### **History**

ACF-9-79, February 15, 1979.

#### **§ 1981. Extradition and civil exclusion proceedings**

A. The Office of the Prosecutor shall have the authority to execute and initiate extradition proceedings against Indian residents of Navajo Indian Country.

B. The Office of the Prosecutor, on behalf of the Navajo Nation, shall have the authority to execute and initiate civil exclusion proceedings to exclude nonmembers from tribal land, pursuant to 17 N.N.C. §§ 1901 and 1902.

#### **History**

ACF-9-79, February 15, 1979.

#### **§ 1982. Authority to subpoena witnesses and documents**

The Office of the Prosecutor shall have the authority to require the production of books, papers and other documents and may issue subpoenas to compel the attendance and testimony of witnesses. If any person shall refuse to obey any subpoena as issued or shall refuse to testify or produce any books, papers or other documents required by the subpoena, the Office of the Prosecutor may petition any court of the Navajo Nation to issue any appropriate order to enforce the subpoena.

#### **History**

ACF-9-79, February 15, 1979.

#### **Annotations**

##### **1. Construction and application**

" ... 2 N.T.C. § 1982 supports the activities of the Special Prosecutor, and we too are hesitant to usurp the legislative function in granting power to secure evidence through the use of subpoenas. [¶ ] There is no statute or rule of law which prohibits the Special Prosecutor from conducting a criminal investigation when criminal charges are pending against an individual." *MacDonald, Sr. v. Navajo Nation ex rel. Rothstein*, 6 Nav. R. 290, 298 (Nav. Sup. Ct. 1990).

##### **2. Scope of subpoena**

"In addressing the objections to the particularity, time periods, and breadth of subpoenas,.... 1. The subpoena may command only the production of things relevant to the investigation; 2. Specification of things to be produced must be made with reasonable particularity; and 3. Production of records covering only a reasonable period of time may be required." *MacDonald, Sr. v. Navajo Nation ex rel. Rothstein*, 6 Nav. R. 290, 293 (Nav. Sup. Ct. 1990).

#### **§ 1983. Criminal investigation equipment**

Consistent with applicable federal law and regulations and the duly approved budget of the Office of the Prosecutor, the Chief Prosecutor is authorized to acquire such criminal investigation equipment as he/she deems appropriate. The Chief Prosecutor is further authorized, consistent with

applicable federal law and regulations, to permit his/her staff to utilize such equipment in carrying out their duties and responsibilities. The Chief Prosecutor and his/her assistants may carry firearms for their own protection while on official duty, provided however, that no employee of the Office of the Prosecutor shall carry a firearm unless such employee has first received instruction and Certification in the use of the firearm by the Division of Public Safety.

#### **History**

ACS-157-83, September 22, 1983.

CF-8-82, February 5, 1982.

ACF-9-79, February 15, 1979.

#### **§ 1984. Prohibiting interference**

The Office of the Prosecutor has an independent responsibility to enforce appropriate provisions of the Navajo Nation Code. No employees, including Executive Branch personnel, shall intercede, or interfere, attempt to intercede or interfere in the legal functions of the Office of the Prosecutor. All inquiries concerning the status of a particular case or policy shall be in writing; additionally, all responses shall be in writing.

#### **History**

ACS-157-83, September 22, 1983.

**Note.** Slightly reworded for statutory and grammatical clarity.

#### **§ 1985. Special Investigative Team (white collar crime)**

Consistent with recommendations of the Bureau of Indian Affairs and the Navajo Nation Special Counsel, a Special Investigative Team shall be established. The Special Investigative Team shall specialize in the areas of white collar or public integrity criminal violations. The Special Investigative Team shall seek Navajo Nation-level prosecutions and recovery of misused Navajo Nation funds, equipment and property. The more serious violations shall be referred to federal authorities in accordance with the United States Attorney's guidelines, after Navajo Nation investigators have concluded their reports.

#### **History**

ACS-157-83, September 22, 1983.

#### **§ 1986. Central records system**

The Office of the Prosecutor shall establish a Central Records Keeping System. The system shall include the date and agency to whom the referral is made, the prosecutor to whom the case is assigned, case status, presiding judge, previous criminal history, title of investigation and case disposition.

### **History**

ACS-157-83, September 22, 1983.

**Note.** Slightly reworded for statutory and grammatical clarity.

### **§ 1987. Case dismissal log and reporting**

Each district Office of the Prosecutor shall maintain a log of all cases dismissed. Each log shall contain the case number or docket number, case title, individual's name, date dismissed, and explanation of dismissal. Copies of each district case dismissal log shall be submitted to the Office of the Prosecutor's Central Office monthly.

### **History**

ACS-157-83, September 22, 1983.

### **§ 1988. Juvenile Justice Section**

A. Duties of the Juvenile Justice Administrator will be to supervise District Juvenile Representatives, coordinate case load monitoring, give legal advice for the handling of juvenile cases, evaluate staff and program, and coordinate with federal, state, and Tribal agencies.

B. Each of the five districts will have Juvenile Representatives. The responsibilities of the Juvenile Representative will include juvenile delinquency proceedings both civil and criminal, case disposition recommendations, Indian Child Welfare case management and other duties as assigned by the juvenile Justice Administrator.

C. One Assistant Juvenile Representative will be under the direct supervision of the District Juvenile Representative at the district level. The Assistant Juvenile Representative will have duties as assigned by the District Juvenile Representative.

D. For administrative purposes, the District Prosecutors will handle leave requests, time and attendance records for the Juvenile Representatives. Should administrative problems arise, the District Prosecutor shall bring them to the attention of the juvenile justice Administrator. All other supervision and substantive case supervision will be conducted by the Juvenile Justice Administrator.

E. Authority for hiring and dismissal shall remain with the Chief Prosecutor thus bringing the Juvenile Justice Administrator and juvenile representatives under the codified exclusive authority of the Chief Prosecutor.

### **History**

ACS-157-83, Exhibit A, September 22, 1983.

**Note.** Slightly reworded for statutory and grammatical clarity.

### **§ 1989. Grievance procedure**



An interdepartmental grievance procedure will be established within four weeks after approval of this article. Such procedure will include an appeal to the Attorney General. Secretarial and clerical support staff will be given the right to utilize Navajo Nation grievance procedures.

#### **History**

ACS-157-83, September 22, 1983.

### **Article 3. Office of the Navajo Public Defender**

#### **History**

CAP-34-93, April 22, 1993.

CF-8-82, February 5, 1982.

**Note.** The Legal Aid and Defender Office formerly at this article was changed to the Office of the Navajo Public Defender by CAP-34-93, April 22, 1993.

#### **§ 1991. Establishment**

There is established the Office of the Navajo Public Defender within the Executive Branch of the Navajo Nation government, and under the oversight of the Government Services Committee of the Navajo Nation Council.

#### **History**

CAP-34-93, April 28, 1993.

CF-8-82, February 5, 1982.

CJA-15-72, January 26, 1972, 1978 Budget, page IX-1.

#### **§ 1992. Purpose**

The purpose of the Office of the Navajo Public Defender is to provide legal defense services to individual indigent persons charged with criminal offenses and to fulfill the requirement for pro bono services by all attorneys and advocates employed by the Navajo Nation government. The public defender shall at all times serve his or her clients independent of any political considerations or private interests and provide legal services to indigent persons accused of crimes which are commensurate with those available to nonindigent persons. By providing these services through the expenditure of public funds, attorneys and advocates employed by the Navajo Nation government should not hereafter be appointed to pro bono representation in the courts of the Navajo Nation, except for those employed by the Office of the Navajo Public Defender pursuant to this Act.

#### **History**

CAP-34-93, April 28, 1993.

CF-8-82, February 5, 1982.

1978 Budget, page IX-1.

CJA-15-72, Exhibit A, § II, January 26, 1972.

**Note.** Slightly reworded for statutory consistency and clarity.

**§ 1993. Personnel**

There are hereby established the following positions:

- A. Director
- B. Staff attorneys
- C. Tribal court advocates
- D. Appropriate clerical personnel
- E. Investigators

F. Such other positions as may from time to time be budgeted by the Navajo Nation Council.

**History**

CAP-34-93, April 28, 1993.

CF-8-82, February 5, 1982.

CJA-15-72, January 26, 1972.

**Note.** Slightly reworded for purposes of statutory clarity.

**§ 1994. Public Defender Commission**

A. There shall be established a Public Defender Commission consisting of three members who shall serve without compensation. Each of the following entities shall appoint one of the commission members:

1. The Navajo Nation Supreme Court;
2. The President of the Navajo Nation;
3. The Board of Bar Commissioners of the Navajo Nation Bar Association.

B. At least two of the members shall be admitted to the practice of law before the courts of the Navajo Nation. No member of the Commission shall at any time be a judge, prosecutor, public defender, or employee of a law enforcement agency.

C. The Public Defender Commission shall appoint and discharge, for good cause only, the Director of the Office of the Navajo Public Defender. The Director shall be appointed to serve a term of three years and shall serve until his or her successor is appointed and qualified. The Director may be reappointed for one or more subsequent three-year terms. Vacancies in the office shall be filled by the Public Defender Commission for the remainder of the unexpired term.

#### **History**

CAP-34-93, April 28, 1993. Added § 1994 and renumbered former § 1994 at § 1996.

#### **§ 1995. Qualifications for personnel**

A. The Director shall be licensed to practice law before the Navajo Nation Courts and before the courts of one of the States of Arizona, New Mexico, or Utah. The Director shall have been licensed in at least one of those jurisdictions for not less than three years prior to his or her appointment. The Director shall devote full time to the performance of his or her duties and shall not engage in the private practice of law.

B. A range for compensation of the Director shall be fixed by the Navajo Nation Council. The Public Defender Commission shall set the precise amount of compensation through negotiation, giving consideration to such factors as the experience of the Director. This compensation, once set, may not be reduced during the term of the Director's appointment.

C. The Director shall employ and fix the compensation of the staff attorneys, tribal court advocates, investigators, clerical personnel, and any other employees necessary to discharge the functions of the public defender office. All salaries shall be reviewed and approved by the Public Defender Commission. Staff Attorneys must be licensed in a state court jurisdiction, and both attorneys and advocates shall become licensed to practice before the courts of the Navajo Nation within a reasonable time after beginning their employment with the office. Staff attorneys and tribal court advocates shall serve on a full-time basis, at the pleasure of the Director, and shall not otherwise engage in the practice of law.

#### **History**

CAP-34-93, April 28, 1993. Added new § 1995.

#### **§ 1996. Duties of Director**

The Director, in addition to any other duties outlined in this part, is hereby authorized and directed to:

A. Represent individual indigent persons who are charged with criminal offenses in the Navajo Nation courts, and advise and counsel these individuals in their legal affairs;

B. Report and be responsible to the Public Defender Commission with regard to administrative matters, in a manner not inconsistent with the Code of

Professional Responsibility;

C. Formulate overall administrative and operating policies pertaining to the Office of the Navajo Public Defender and to take such action as he or she shall deem necessary for the accomplishment and enforcement thereof;

D. Coordinate the pro bono appointment system of other attorneys and advocates for the representation of indigent persons not represented by the Office of the Navajo Public Defender.

#### **History**

CAP-34-93, April 28, 1993.

CF-8-82, February 5, 1982.

1978 Budget, page IX-1.

CJA-15-72, January 26, 1972.

#### **§ 1997. Representation of indigent persons**

A. The Office of the Navajo Public Defender shall represent as counsel, without charge, each indigent person who is under arrest for or charged with committing a criminal offense under the Navajo Nation Code which may lead to the imposition of a sentence of incarceration if:

1. The defendant requests it; or

2. The court, on its own motion or otherwise, so orders and defendant does not affirmatively reject, on record, the opportunity to be represented by legal counsel in the proceeding.

B. The determination of indigence shall be made by the district court to which the case is assigned pursuant to uniform rules promulgated by the Navajo Nation Supreme Court.

#### **History**

CAP-34-93, April 28, 1993.

#### **§ 1998. Duties of the Office of the Navajo Public Defender**

A. When representing an indigent person, the Office of the Navajo Public Defender, only after conditions of § 1997 have been met, shall:

1. Counsel and defend him/her, whether he/she is held in custody, filed on as a delinquent, or charged with a criminal offense, at every state of the proceedings following arrest, detention, or service of process; and

2. Prosecute any appeals or other remedies before or after conviction which the office considers to be in the interest of justice.

B. In no case, however, shall the Navajo Public Defender be required to prosecute any appeal or other remedy unless the Navajo public defender is satisfied first that there is arguable merit to the proceeding.

#### **History**

CAP-34-93, April 28, 1993.

#### **§ 1999. Appointment of other attorney in place of public defender**

The court may, upon the application of the Director of the Office of the Navajo Public Defender, appoint an attorney other than the public defender to represent the indigent person at any state of the proceedings or on appeal. The application may be based upon any good cause, including, but not limited to, a determination by the Director that the then available resources of the office are insufficient to adequately meet the need for representation in a particular case. The court may appoint alternate counsel, who shall serve without compensation, pursuant to the pro bono appointment system then in effect, which is coordinated by the Director under § 1996 (D).

#### **History**

CAP-34-93, April 28, 1993.

#### **§ 1999A. Recoupment of fees and costs**

In any case when a court determines that a defendant is able to repay all or part of the expenses of court-appointed counsel or any ancillary expenses incurred in representing such defendant, the court shall assess such fees or costs against such defendant.

#### **History**

CAP-34-93, April 28, 1993

#### **§ 1999B. Amendments**

These provisions may be amended by the Navajo Nation Council upon the initiative or recommendation of, or through legislation supported or sponsored by the Government Services Committee of the Navajo Nation Council, as provided in 2 N.N.C. § 343(B).

#### **History**

CAP-34-93, April 28, 1993.

#### **Article 4. [Reserved]**

#### **History**

CAP-34-93, April 22, 1993.

CF-8-82, February 8, 1982. Rescinded former Article 4, "Office of the General

Counsel".

## **Article 5. [Reserved]**

### **History**

CO-59-93, October 20, 1993. Rescinded former Article 5, "Navajo Hopi Legal Services Program" and incorporated the program within the Department of Justice.

ACAU-140-83, August 10, 1983.

## **Article 6. Special Prosecutor**

### **§ 2021. Application for appointment of a Special Prosecutor**

A. The Attorney General shall conduct a preliminary investigation pursuant to the provisions of this Section whenever he/she receives information sufficient to constitute grounds to investigate whether any of the persons listed in Subsection (B) of this Section has committed a violation of any federal or state criminal law or any law or regulation of the Navajo Nation, or committed any act upon which the Navajo Nation may have a civil cause of action. The Attorney General may take no longer than 60 days to conduct such preliminary investigation.

B. The persons referred to in Subsection (A) of this Section are:

1. The President of the Navajo Nation;
2. The Vice-President of the Navajo Nation;
3. Any member of the Executive Staff of the Office of the President or the Vice-President.
4. The Chairperson of any Standing Committee of the Navajo Nation Council;
5. The Attorney General, in which case the Deputy Attorney General shall perform the functions of the Attorney General pursuant to the provisions of §§ 2021-2024 of this title;
6. The Director or Acting Director or Deputy Director of any Division, Department, Program or Office of the Executive Branch of the Navajo Nation; and
7. Any other official, employee or agent of the Navajo Nation, where the Attorney General determines that investigation or prosecution or civil litigation against such person by the Attorney General or other officer or employee of the Department of Justice may result in a personal, financial, or political conflict of interest.

C. In determining whether grounds sufficient to investigate exist, the Attorney General shall consider the degree of specificity of the information

received and the credibility of the source of the information.

D. Upon completion of the preliminary investigation, if the Attorney General finds that there are no reasonable grounds to believe that further investigation or prosecution is warranted, or that the matter may be handled by the Attorney General, the Office of the Prosecutor or other officials, or employees of the Department of Justice without resulting in personal, financial or political conflict of interest, the Attorney General may take such lawful action or inaction as he/she deems appropriate.

E. Upon completion of the preliminary investigation, if the Attorney General finds that there are reasonable grounds to believe that further investigation or prosecution is warranted, and that the matter cannot be handled by the Attorney General, the Office of the Prosecutor or any other official or employee of the Department of Justice without resulting in personal, financial, or political conflict of interest, the Attorney General shall apply to the Special Division of the Window Rock District Court for appointment of a Special Prosecutor.

F. An application pursuant to Subsection (E) of this Section shall contain sufficient information to assist the special division to select a Special Prosecutor and to define that Special Prosecutor's jurisdiction. The Attorney General shall recommend at least three persons among whom the Special Division shall appoint such Special Prosecutor, shall recommend appropriate compensation, and shall recommend the extent of such Special Prosecutor's jurisdiction.

G. If for any reason the Special Division fails to comply with the provisions of § 2022(A) of this title, then the Attorney General shall exercise the powers of the Special Division under of § 2022 (A) and (C) of this title.

H. Whenever a Special Prosecutor is currently in office, and whenever the Attorney General receives information sufficient to cause him/her to apply for appointment of a Special Prosecutor pursuant to Subsection (E) of this Section, in lieu thereof the Attorney General may apply to the Special Division to enlarge the jurisdiction of such Special Prosecutor to include any such new matter.

I. No application or any other documents or materials supplied to the Special Division in connection with an application or appointment of a Special Prosecutor shall not be revealed to any person outside the Special Division or the Department of Justice without leave of the Special Division, or the written release of the Attorney General.

J. Whenever a matter is within the jurisdiction of a Special Prosecutor, the Attorney General, the Chief Prosecutor, and all officers and employees of the Department of Justice, shall suspend all investigations and proceedings regarding such matter, except insofar as such Special Prosecutor and the Attorney General agree in writing that such investigations and proceedings may continue.

K. Notwithstanding the provisions of Subsection (J) of this Section, the Attorney General may appear in any proceeding before any court or legislative or administrative body as an amicus curiae concerning any issues of law raised

by any case or proceeding.

### **History**

CMA-8-89, March 1, 1989.

### **Cross References**

Window Rock District Court, Special Division, see 7 N.N.C. § 291 *et seq.*

### **Annotations**

#### **1. Construction with other laws**

"The [Special Prosecutor] Act blends well with the Sovereign Immunity Act because it provides a remedy for the Navajo Nation against officers or employees who exceeded their authority." *MacDonald, Sr. v. Navajo Nation ex rel. Rothstein*, 6 Nav. R. 290, 296 (Nav. Sup. Ct. 1990).

#### **2. Construction and application**

"If the Attorney General funds from the preliminary investigation that there are reasonable grounds for further investigation or prosecution and there is a conflict of interest by the Attorney General or prosecution office, he or she may apply to the Special Division of the Window Rock District Court for appointment of a special prosecutor." *Navajo Nation v. MacDonald, Jr.*, 7 Nav. R. 1, 11 (Nav. Sup. Ct. 1992).

#### **3. Investigations**

"Once a special prosecutor assumes jurisdiction, the attorney general and chief prosecutor must suspend all investigations except insofar as such special prosecutor and attorney general agree in writing that such investigations and proceedings may continue." *Navajo Nation v. MacDonald, Jr.*, 7 Nav. R. 1, 6 (Nav. Sup. Ct. 1992).

### **§ 2022. Duties of the Special Division**

A. Within 10 days of receipt of an application pursuant to § 2021 (E) of this title, the Special Division shall appoint an appropriate Special Prosecutor from among the persons recommended by the Attorney General, and shall determine such Special Prosecutor's jurisdiction.

B. The Special Division may request, and upon request shall receive, the assistance of the Attorney General in securing the appointment of a Special Prosecutor.

C. The Special Division shall set the fees and expenses to be paid to a Special Prosecutor upon his or her appointment, in an amount agreed between the proposed Special Prosecutor and the Special Division. The Special Division may request, and upon request shall receive, assistance and cooperation from the Division of Administration and Finance and the Budget and Finance Committee of the Navajo Nation Council, in determining and arranging for funding such fees and expenses. The Special Division shall enter into an appropriate contract



with the Special Prosecutor, in the name of the Navajo Nation, and shall comply with the requirements as may be applicable of 25 U.S.C. § 81. Notwithstanding any other provision of law, the presiding judge of the Special Division is hereby delegated the authority to execute, and shall execute the contract on behalf of the Navajo Nation. Such contract shall be a valid, binding and enforceable obligation of the Navajo Nation.

D. If a vacancy in office arises because of the death of a Special Prosecutor, the Special Division shall appoint a successor in the same manner as the initial appointment was made. The Special Division may appoint either a person recommended to the vacant office in the initial application, or one of three other persons to be recommended by the Attorney General at the Special Division's request.

E. If a vacancy in office arises because of the removal pursuant to § 2024 (B), (C) or (D) of this title, the Special Division shall appoint an acting Special Prosecutor to serve until any judicial review of such removal pursuant to § 2024 (D) of this title is either completed or barred by time, after which time the Special Division shall take appropriate action. The Special Division may appoint either a person recommended to the vacant office in the initial application, or one of three other persons to be recommended by the Attorney General.

F. Upon the request of a Special Prosecutor, the Special Division may enlarge the jurisdiction of such Special Prosecutor whenever it appears that there exist new matters related to matters within his or her original jurisdiction which, had they been known by the Special Division at the time of such Special Prosecutor's appointment, would have been included within his or her jurisdiction.

#### **History**

CMA-8-89, March 1, 1989.

#### **Cross References**

Window Rock District Court, Special Division, see 7 N.N.C. § 291 *et seq.*

#### **§ 2023. Authority and duties of a Special Prosecutor**

A. A Special Prosecutor appointed pursuant to § 2022 of this title shall have full power and independent authority to exercise all functions and powers of the Attorney General and the Office of the Prosecutor, as defined in 2 N.N.C. §§ 1963(A), (B), (G), (I), and (K); 1972; 1974(B); 1978-1984, with respect to all matters within his or her jurisdiction.

B. A Special Prosecutor shall have full power and authority to appear before any court of the Navajo Nation, the same as if he/she were admitted to the bar of such court, with respect to any matter within his or her jurisdiction or the duties and responsibilities of his or her office.

C. A Special Prosecutor shall have full power and independent authority to initiate or participate in any proceeding pursuant to 2 N.N.C. §§ 3751-3761, or before the Board of Election Supervisors, the Tax Commission or the Labor

Commission, with respect to any matter within his or her jurisdiction.

D. Upon the authorization of the Navajo Nation Council, and subject to its continuing authority and supervision, a Special Prosecutor shall have the power and authority to commence a civil or administrative action against any person or entity, before any federal or state court or administrative body, with respect to any matter within his or her jurisdiction.

E. Notwithstanding the provisions of 17 N.N.C. § 1801, a criminal complaint signed and sworn before a judge of any court of the Navajo Nation by a Special Prosecutor shall be deemed a valid complaint.

F. With the prior consent of the Special Division, a Special Prosecutor shall have the power and authority to appoint, fix the compensation of, and assign the duties to and thereafter supervise such employees, including investigators, attorneys and consultants, as such Special Prosecutor deems necessary.

G. A Special Prosecutor may request, and upon request shall receive assistance from any Branch, Division, Department, Office or Program of the Navajo Nation, which may include access to any records, files or other materials relevant to any matter within his or her jurisdiction. Upon agreement by the Attorney General, a Special Prosecutor may utilize the resources and personnel of the Department of Justice where necessary to perform such Special Prosecutor's duties.

H. A Special Prosecutor shall have all necessary and proper power and authority incident to the exercise of his or her other powers and authority.

### **History**

CMA-8-89, March 1, 1989.

### **Cross References**

Window Rock District Court, Special Division, see 7 N.N.C. § 291 *et seq.*

### **Annotations**

#### **1. Construction and application**

"The special prosecutor has full power and independent authority to exercise all functions and powers of the Attorney General and the Office of the Prosecutor and has specific authority to proceed against any person or entity in a civil or administrative action." *Navajo Nation v. MacDonald, Jr.*, 7 Nav. R. 1, 5 (Nav. Sup. Ct. 1992).

"That includes the power to obtain the production of documents or compel testimony by subpoena and to petition the courts to issue subpoena enforcement orders." *MacDonald, Sr. v. Navajo Nation ex rel. Rothstein*, 6 Nav. R. 290, 291 (Nav. Sup. Ct. 1990).

#### **§ 2024. Termination and removal of a Special Prosecutor**

A. The appointment of a Special Prosecutor shall terminate when:

1. The Special Prosecutor notifies the Attorney General and the Special Division that the investigation and prosecution of all matters within such Special Prosecutor's jurisdiction have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions; and

2. The Special Prosecutor files a report in full compliance with Subsection (F) of this Section.

B. The Special Division, either on its own motion or upon the suggestion of the Attorney General, may terminate the appointment of a Special Prosecutor, upon the grounds provided in Subsection (A) (1) of this Section.

C. A Special Prosecutor may be removed upon the two-thirds (2/3) vote of the Navajo Nation Council, or by action of the Attorney General, and only for good cause, physical disability, mental incapacity, or other condition that substantially impairs the performance of such Special Prosecutor's duties.

D. A Special Prosecutor may seek judicial review of any termination of his appointment by the Navajo Nation Council, the Special Division, or the Attorney General, by filing within five days thereof a petition of review with the Supreme Court of the Navajo Nation. Notwithstanding any other provision of law, the Supreme Court shall have and shall accept jurisdiction to hear and determine said petition and to take such remedial action as it deems appropriate.

E. Upon the termination of a Special Prosecutor's appointment pursuant to Subsections (B), (C) or (D) of this Section, such Special Prosecutor shall promptly file a report with the Special Division, the Navajo Nation Council and the Attorney General in full compliance with Subsection (F) of this Section.

F. The report required by Subsections (A) (2) and (E) of this Section shall set forth fully and completely a description of the work of the Special Prosecutor, including the status and disposition of an cases brought, the reasons for not prosecuting any matter within such Special Prosecutor's jurisdiction which was not prosecuted, and an accounting of all funds received and expenditures made in the performance of his or her duties.

#### **History**

CMA-8-89, March 1, 1989.

#### **Cross References**

Window Rock District Court, Special Division, see 7 N.N.C. § 291 *et seq.*

#### **Subchapter 40. [Reserved]**

#### **Subchapter 41. Navajo Tax Commission**

#### **§ 3351. Establishment**

The Navajo Tax Commission is hereby established as a part of the Executive Branch of the Navajo Nation government.

### **History**

CJA-6-74, § 1, January 16, 1974.

### **§ 3352. Membership**

A. The Commission shall consist of five members, at least three of whom shall be Navajos.

B. The President of the Navajo Nation shall, at the times required under Subsection (C) and (E), nominate a person qualified by virtue of education, experience, or office, and upon confirmation by the Government Services Committee of the Navajo Nation Council, such person shall be appointed to serve a term as a Commissioner.

C. The terms of office of commissioners shall be five years; provided, however, that in order to stagger the expiration of terms of office, March 31 of each year shall be the common anniversary date, the three present Commissioners shall continue to serve out their appointed terms, and, of the two new Commissioner appointees, one shall be appointed for a term ending in 1990, and the other for a term ending in 1991.

D. A Commissioner shall be removed only for cause by the President of the Navajo Nation and upon ratification by the Government Services Committee of the Navajo Nation Council; provided that the person so removed may then appeal the removal to the Supreme Court of the Navajo Nation. For the purposes of this Subsection, "cause" means:

1. Incapacity. Physical or mental incapacity, where such incapacity extends or is expected to extend longer than six months.

2. Nonfeasance. Failure to perform the duties of office, including, but not limited to, repeated and unexcused failure to attend the meetings and other official functions of the Commission.

3. Ex parte violation. Participation in ex parte consultations with any representative of a taxpayer who is an appellant in a dispute before or with the Commission.

4. Certain other acts. Any act that is a felony in the jurisdiction where committed, or any act involving moral turpitude that is a misdemeanor in the jurisdiction where committed.

5. A vacancy in the Commission, whether caused by death, removal, or resignation shall be filled by an interim appointment to complete the vacated term made in accordance with this Section.

### **History**

CN-59-87, November 18, 1987.

CJA-6-74, § 2, January 16, 1974.

**1987 amendment.** Amended generally and added Subsection (d). "Court of Appeals" was deleted as the correct name for this Court is "The Supreme Court of the Navajo Nation".

**§ 3353. Powers**

A. The Navajo Tax Commission shall have the following powers:

1. To review and study all sources of wealth and income within the Navajo Nation and the possible revenues from the taxation of those sources, in order to develop an appropriate, comprehensive system of taxation.

2. With the authorization of the Navajo Nation Council, to lay and collect taxes on income from whatever source derived, to lay and collect taxes on property, both tangible and intangible, and to lay and collect taxes on sales, inventories and wages completed or earned, and other measures of economic activity or engagement within the Navajo Nation.

3. To adopt such other rules and regulations as it deems necessary for the proper functioning of the Commission, to implement the taxes enacted by the Navajo Nation Council, and to defend, enforce, and collect the taxes and accomplish their proper and efficient administration, including delegating authority and duties to appropriate offices, officers, and representatives.

4. To employ or engage, either directly or through delegation, those persons qualified by education and experience necessary to discharge the duties of the Commission, the offices or officers.

B. The official business of the Commission shall be conducted by a quorum of members, at meetings duly called by the presiding officer or a designee.

1. A quorum shall comprise three Commissioners and any substantive action of the Commission shall be taken by the affirmative vote of a majority of the Commissioners present.

2. Except for special or emergency meetings which may be called when and if circumstances warrant, at least one official regular business meeting shall be held by the Commission during each calendar quarter.

3. From time to time, the Commissioners shall select their presiding officers and may delegate other specific duties among themselves.

**History**

CN-59-87, November 18, 1987.

CJA-6-74, § 3, January 16, 1974.

**1987 amendment.** Amended generally and added Subsection (A)(4) and Subsection (B).

**Note.** Slightly reworded for statutory form.

**§ 3354. Compensation**

A Commissioner shall be compensated for services and expenses by payment of an honoraria of two hundred fifty dollars (\$250.00) per day, or fraction thereof, and by reimbursement of actual and reasonable expenses incurred, in connection with attendance at Commission meetings and the performance of other official Commission duties.

**Subchapter 42. [Reserved]**

**Subchapter 43. Navajo Telecommunications Regulatory Commission**

**History**

Formerly "Film and Media Commission." By FY 1985 Budget Resolution, the regulatory function was delegated to the Navajo Telecommunication Regulatory Commission and non-regulatory functions related to filming or radio/television activities were placed in the Broadcast Services Department.

ACAP-62-85, April 11, 1985.

**§ 3451. Establishment**

There is hereby established under the Office of the President and Vice-President within the Executive Branch of the Navajo Nation government, and in accordance with Resolution ACMA-36-84 of the Advisory Committee of the Navajo Nation Council, the Navajo Telecommunications Regulatory Commission, hereinafter called the "Commission".

**History**

ACAP-62-85, April 11, 1985.

**Cross References**

Navajo Telecommunications Regulatory Act, 21 N.N.C. § 501 *et seq.*

**§ 3452. Purpose**

The purpose of the Commission shall be to act upon and regulate any and all matters of the telecommunications industry on the Navajo Nation, including but not limited to computer, video, television, telegraph, radio, cable television, satellite dishes, two-way radio, and other related telecommunication services transmitted by electricity, wire land lines, wireless technology, cable, fiber optics, microwave, satellite or radiowave, to provide for the orderly growth and development of the telecommunications industry, and the operations thereby.

## **History**

CAP-17-03, April 23, 2003, Amended purpose to include additional technologies.

ACAP-62-85, April 11, 1985.

## **Cross References**

Navajo Telecommunications Regulatory Act, 21 N.N.C. § 501 *et seq.*

### **§ 3453. Powers, authorities and duties**

A. The Commission shall have all the powers necessary and appropriate as delegated through legislative enactments by the Government Services Committee of the Navajo Nation Council pursuant to the inherent power of a government to impose restrictions on private rights to protect public welfare, order and security, to carry out the purpose and goals set forth in § 3452. This delegation of authority shall be inclusive of the entire regulatory scheme, but exclusive of any telecommunications services or development activity, except where telecommunications regulation may apply to such activities.

B. The enumerated powers of the Commission are:

1. To establish and adopt a regulatory policy subject to Navajo Nation Council enactment which will govern any and all Navajo Nation telecommunications activities, not inconsistent with federal Communications Commission regulation.

2. To establish, promulgate, and enforce rules, regulations, policies, and issue orders and resolutions, which are consistent with the Navajo regulatory code and this Plan of Operation, as necessary for the accomplishment of its purpose, authority, functions, and responsibilities.

3. To establish methods, procedures, schedules, and conditions of accessing permits, respective fees, and reasonable rates of compensation for particular telecommunication services on the Navajo Nation.

4. To approve and enter into such agreements, contracts, or written understandings as necessary or appropriate in accomplishing the duties and purpose of the Commission. All such contracts and agreements shall be in the name of the Navajo Nation and shall be subject to normal procedures established for contracts and agreements.

5. To establish procedures and requirements for hearings and investigations pertinent to the functions and powers of the Commission, consistent with normal due process; to hear complaints concerning noncompliance with regulations established as the conditions of engaging in any telecommunications activities on the Navajo Nation, or any valid complaint from any entity which is aggrieved by any action by the Commission or staff.

6. The Commission in furtherance of its powers shall have the authority to recommend and impose fines or other sanctions according to

established schedules, on any entity for violation of all telecommunications laws, regulations, rules, orders and policies.

#### **History**

CAP-17-03, April 23, 2003, Amended Subsections (B)(1), (B)(3), (B)(6) generally.

ACAP-62-85, April 11, 1985.

**Note.** Slightly reworded for purposes of statutory clarity.

#### **Cross References**

Navajo Telecommunications Regulatory Act, 21 N.N.C. § 501 *et seq.*

#### **§ 3454. Membership of the Commission**

A. The Commission shall consist of seven Commissioners, all of whom shall be appointed by, and serve at the pleasure of the President of the Navajo Nation, and confirmed by the Government Services Committee of the Navajo Nation Council, and shall serve their terms of office according to their appointments.

B. Each appointment shall be for a period of four years, with the exception of those appointments made in 2002, which appointments shall be made at the discretion of the President of the Navajo Nation as follows, two appointments for a period of two years, two appointments for a period of three years and three appointments shall be for a period of four years.

C. No Commission member shall have a financial, political or any other interest or motive in any sector of the telecommunications industry on the Navajo Nation, as provided for in the Navajo Nation Ethics in Government Law. The Commission members shall carry out their duties and responsibilities in a manner which protects and promotes the best interests of the Navajo Nation.

D. The Chairperson and Vice-Chairperson of the Commission shall be selected by the Commission from its membership by majority vote, for such term as is determined appropriate. The Chairperson and the Vice-Chairperson shall have the following duties and responsibilities:

1. To call meetings, special sessions, hearings, or inquiries; and to preside at all these events.

2. To represent the Commission in all matters relating to telecommunications activities.

#### **History**

CAP-17-03, April 23, 2003, Amended Subsections (B), (C) and (D), generally.

ACAP-62-85, April 11, 1985.

**Note.** Slightly reworded for statutory form and to state the correct citation from the referenced law.



### **Cross References**

Navajo Nation Ethics in Government Law, see 2 N.N.C. §§ 3751-3761.

Navajo Telecommunications Regulatory Act, 21 N.N.C. § 501 *et seq.*

### **§ 3455. Staff Personnel**

The President of the Navajo Nation shall employ an Executive Director of the Commission who shall serve at the pleasure of the President of the Navajo Nation and be subject to confirmation by the Government Services Committee of the Navajo Nation Council. All other staff shall be employed by the Executive Director in accordance with the Personnel Policies Manual of the Navajo Nation.

### **History**

CAP-17-03, April 23, 2003, Added Section 3455, Staff Personnel.

### **Cross References**

Navajo Telecommunications Regulatory Act, 21 N.N.C. § 501 *et seq.*

## **Subchapter 44. Motor Vehicle Review Board**

### **§ 3551. Establishment**

The Motor Vehicle Review Board (hereinafter referred to as MVRB) was established by Advisory Committee Resolution ACS-360-72 and is hereby continued as a non-budgeted entity within the Executive Branch of the Navajo Nation Government.

### **History**

IJRJY-124-04, July 26, 2004.

ACD-172-82, December 21, 1982.

### **§ 3552. Purpose**

The MVRB is to determine and establish appropriate policies and procedures for meeting transportation needs in conducting business on behalf of the Navajo Nation.

### **History**

IJRJY-124-04, July 26, 2004.

ACD-172-82, December 21, 1982.

### **§ 3553. Composition**

A. The MVRB shall consist of six voting members. The Chairperson shall

vote only as a tie breaker. The Fleet Management Department (FMD) Director shall participate as a non-voting member and shall provide support services. In the event the Director is unable to attend, he or she shall send a designated representative.

B. The Branch Chiefs of the Navajo Nation shall each designate two members to the MVRB for a term of four years.

C. The MVRB shall select the Chairperson and the Vice Chairperson from the MVRB membership.

#### **History**

IGRJY-124-04, July 26, 2004.

ACD-172-82, December 21, 1982.

**Note.** Slightly reworded at Subsection A.

#### **§ 3554. Meetings and board expenses**

A. A quorum shall consist of four voting members. A motion will pass only if it receives a majority of votes of those members present and voting, as such shall constitute the final action of the MVRB.

B. Members of the MVRB shall receive reimbursement for actual and reasonable expenses incurred when attending official meetings pursuant to the Navajo Nation Travel Policies and Procedures.

#### **History**

IGRJY-124-04, July 26, 2004.

ACD-172-82, December 21, 1982.

**Note.** Reorganized into Subsections A and B.

#### **§ 3555. Authority, duties and responsibilities**

The MVRB shall function independently, but in cooperation with all three branches subject to the Plan of Operation. The Board shall have the following duties:

A. The MVRB shall hear all requests for and authorize the assignment of Navajo Nation vehicles. The MVRB shall periodically review each department's usage and may adjust vehicle assignments accordingly. Conditions of assignment may include, but not limited to, hours of permissible use, authorized drivers, parking requirements, decals, equipment modification and take home authorization.

B. The MVRB shall determine standards and criteria for suspension and revocation of Navajo Nation Motor Vehicle Operator's Permits.

C. The MVRB shall develop, implement and enforce rules and regulations

regarding the use of Navajo Nation vehicles. The MVRB shall have the authority to revoke any vehicle assignment(s) if it deems departmental responsibility for proper use has not been exercised.

D. The MVRB shall have the authority to conduct hearings to suspend or revoke Navajo Nation Operator's Permits or vehicle assignments.

E. The MVRB shall have the authority to recommend that the Navajo Nation proceed with legal action to recover the cost of damages from the operator who has caused the accident.

#### **History**

IGRJY-124-04, July 26, 2004.

ACD-172-82, December 21, 1982.

**Note.** Slightly reworded.

#### **§ 3556. Restrictions**

No member shall have individual authority to act independently on behalf of the MVRB by reason of membership on the MVRB.

#### **History**

IGRJY-124-04, July 26, 2004.

ACD-172-82, December 21, 1982.

#### **§ 3557. Amendments**

This Plan of Operation may be amended upon the recommendation of the MVRB subject to approval by the Government Services Committee of the Navajo Nation Council.

#### **History**

IGRJY-124-04, July 26, 2004.

**Note.** Slightly reworded.

### **Subchapter 45. [Reserved]**

#### **History**

CAP-41-94, April 20, 1994. Adopted Enabling Legislation for the Division of Natural Resources and repealed and deleted certain Division of Natural Resources' department and program plans of operation from the Navajo Nation Code, including the Office of Navajo Tribal Land Administration, previously codified at 16 N.N.C. § 201, *et seq.*

GSCMY-36-94, May 25, 1994. Adopted a Plan of Operation for the Navajo Land

Department.

1978 Budget Resolution. Changed name from "Office of Navajo Land Administration" to the "Land Administration Department" and moved it from 2 N.N.C. Subchapter 13, §§ 1301-1302 to 2 N.N.C. Subchapter 45, §§ 2151-2152.

1973 Budget Resolution.

CMA-42-66, March 3, 1966.

CAU-50-59, August 6, 1959.

**Note.** This Subchapter 45, § 2151, *et seq.*, "Land Administration Department", is also deleted pursuant to the direction given by the Office of the Attorney General's memorandum dated January 4, 1991, regarding codification of enabling legislation.

#### **Subchapter 46. [Reserved]**

#### **Subchapter 47. [Reserved]**

##### **History**

**Note.** Former §§ 2201-2202 "Information Services Department" responsible for official records of the Navajo Nation government, under ACAU-163-77, is now called "Records Management" in the Division of General Services. See 2 N.N.C. Subchapter 17.

#### **Subchapter 48. [Reserved]**

##### **History**

**Note.** Formerly "Navajo Office of Census and Vital Statistics", now the "Navajo Office of Vital Records" in the Division of Human Resources. See 2 N.N.C. § 1701 *et seq.*

#### **Subchapter 49. [Reserved]**

##### **History**

The Computer Services Department has been reorganized under the Division of General Services within the Executive Branch of the Navajo Nation. Pursuant to the Office of Attorney General's memorandum dated January 4, 1991, this Plan has been deleted from the Code. See the 1978 Budget and ACAP-95-76, April 21, 1976.

#### **Subchapter 50. [Reserved]**

#### **Subchapter 51. [Reserved]**

##### **History**

Formerly "Tribal Assistance and Projects Department" responsible for health,

education and welfare programs, as delineated in the 1978 budget has since been rescinded by subsequent inconsistent acts authorizing the Division of Health, the Division of Education and the Division of Social Services to plan, organize and administer the Navajo Nation's health, education and welfare programs.

**Subchapter 52. [Reserved]**

**Subchapter 53. [Reserved]**

**History**

Formerly "Personnel Services Department", the "Personnel Management Office" is now in the Division of Human Resources. See 2 N.N.C. § 1701 *et seq.*, and GSCN-57-90, November 27, 1990.

**Subchapter 54. [Reserved]**

**Subchapter 55. [Reserved]**

**History**

Formerly "Commerce and Business Regulation Department" discontinued by the 1981 Budget. See Division of Economic Development, 2 N.N.C. Subchapter 21.

**Subchapter 56. [Reserved]**

**Subchapter 57. [Reserved]**

**History**

"Revenue Sharing Department" superseded by ACJN-106-85, June 12, 1985. See Division of Community Development. 2 N.N.C. § 1451 *et seq.*

**Subchapter 58. [Reserved]**

**Subchapter 59. [Reserved]**

**History**

"Tax Assistance Department" discontinued by the 1981 Budget.

**Subchapter 60. [Reserved]**

**Subchapter 61. [Reserved]**

**History**

The 1978 Budget discontinued the Transportation Department and redesignated it as the Transportation Branch of the General Services Department of the Division of Administration and Finance. See now the Department of Transportation within the Division of Community Development, 2 N.N.C. § 1451 *et seq.*

**Subchapter 62. [Reserved]**

**Subchapter 63. [Reserved]**

**History**

The 1978 Budget, page III-1, discontinued the "Maintenance Engineering Department" and replaced it with the "Maintenance Engineering Branch" of the General Services Department of the Division of Administration and Finance. See now the Division of General Services, 2 N.N.C. Subchapter 17.

**Subchapter 64. [Reserved]**

**Subchapter 65. [Reserved]**

**History**

The "Design and Engineering Services Department" is now in the Division of Community Development, See 2 N.N.C. § 1451 *et seq.* and GSCS-70-94, September 7, 1994. See also, ACAP-59-85, April 11, 1985. 1977 Budget. 1974 Budget. 1972 Budget.

**Subchapter 66. [Reserved]**

**Subchapter 67. [Reserved]**

**History**

Formerly Community Development Program, see now 2 N.N.C. § 1451 *et seq.* and GSCS-70-94, September 7, 1994, adopting a Master Plan of Operation for the Division of Community Development.

**Subchapter 68. [Reserved]**

**Subchapter 69. [Reserved]**

**History**

CAP-41-94, April 20, 1994. Adopted Enabling Legislation for the Division of Natural Resources and repealed and deleted certain Division of Natural Resources' department and program plans of operation from the Navajo Nation Code, including the Department of Recreational Resources, (Parks and Recreation Department) codified at 19 N.N.C. §§ 301-304.

1978 Budget Resolution.

1977 Budget Resolution.

1976 Budget Resolution.

CJA-16-72, January 27, 1972.

**Note.** This Subchapter 69, § 2801 *et seq.*, "Parks and Recreation Department", is also deleted pursuant to the direction given by the Office of the Attorney

General's memorandum dated January 4, 1991, regarding codification of enabling legislation.

**Subchapter 70. [Reserved]**

**Subchapter 71. [Reserved]**

**History**

Formerly Property and Purchasing was discontinued by the 1978 Budget. (See now Division of Finance, 2 N.N.C. Subchapter 11.)

**Subchapter 72. [Reserved]**

**Subchapter 73. [Reserved]**

**Subchapter 74. [Reserved]**

**Subchapter 75. [Reserved]**

**Subchapter 76. [Reserved]**

**Subchapter 77. [Reserved]**

**Subchapter 78. [Reserved]**

**Subchapter 79. [Reserved]**

**Subchapter 80. [Reserved]**

**Subchapter 81. [Reserved]**

**History**

**Note.** This Subchapter 81, § 3101, *et seq.*, formerly "Range Resources Department" is now part of the Division of Natural Resources, see 2 N.N.C. § 1901 *et seq.* See the Office of the Attorney General's memorandum dated January 4, 1991 regarding codification of enabling legislation.

**Subchapter 82. [Reserved]**

**Subchapter 83. [Reserved]**

**History**

CAP-41-94, April 20, 1994. Adopting Enabling Legislation for the Division of Natural Resources and repealed and deleted certain Division of Natural Resources' department and program plans of operation from the Navajo Nation Code, including the Department of Range Management (Range and Livestock Department), previously codified at 2 N.N.C. § 401 *et seq.* 1977 Budget Resolution. CMA-34-66, March 2, 1966. CAU-50-59, August 6, 1959. CS-82-57, September 18, 1957. CF-29-57, February 16, 1957.

**Note.** Subchapter 83, § 3151, *et seq.*, formerly the "Range and Livestock Department" is deleted. See by the Office of the Attorney General's memorandum dated January 4, 1991, regarding codification of enabling legislation.

**Subchapter 84. [Reserved]**

**Subchapter 85. [Reserved]**

**History**

Previously codified Sections on the Navajo Tribal Special Education Department under the Division of Education within the Executive Branch deleted. See Attorney General's memorandum dated January 4, 1991 regarding codification of enabling legislation. See now 2 N.N.C. § 1801 *et seq.*

**Subchapter 86. [Reserved]**

**Subchapter 87. [Reserved]**

**History**

Formerly "Navajo Water Commission". Discontinued by ACJ-1 12-83, July 14, 1983 and CS-28-83, September 28, 1983.

**Subchapter 88. [Reserved]**

**Subchapter 89. [Reserved]**

**Subchapter 90. [Reserved]**

**Subchapter 91. [Reserved]**

**History**

The Navajo Tax Commission formerly codified at Subchapter 91 is now found at Subchapter 41.

**Subchapter 92. [Reserved]**

**Subchapter 93. [Reserved]**

**History**

CAP-47-95, April 21, 1995. Adopted Enabling Legislation for the Environmental Protection Agency and removed it from within the Division of Natural Resources. Also adopted the Navajo Nation Environmental Policy Act. See 2 N.N.C. § 1921, *et seq.*

GSCJY-50-94, July 13, 1994. Adopted a Plan of Operation for the Environmental Protection Agency.

ACAP-94-76, April 21, 1976.



CAU-72-72, August 10, 1972. Established the Environmental Protection Commission.

#### **Cross References**

Navajo Nation Environmental Protection Agency, see 2 N.N.C. § 1921 *et seq.*

**Subchapter 94. [Reserved]**

**Subchapter 95. [Reserved]**

#### **History**

Navajo Telecommunications Regulatory Commission formerly codified at Subchapter 95 is now found at Subchapter 43.

**Subchapter 96. [Reserved]**

**Subchapter 97. [Reserved]**

#### **History**

Formerly the "Records Management Committee". Records Management is now in the Division of General Services. See ACAU-163-77.

**Subchapter 98. [Reserved]**

**Subchapter 99. [Reserved]**

#### **History**

Motor Vehicle Review Board formerly codified at Subchapter 99 is now found at Subchapter 44.

**Subchapter 100. [Reserved]**

**Subchapter 101. [Reserved]**

#### **History**

Formerly Legal Aid & Defender Services. Discontinued by CAP-34-93, April 28, 1993.

See now 2 N.N.C. § 1991.

**Subchapter 102. [Reserved]**

**Subchapter 103. [Reserved]**

#### **History**

Formerly "Cartographic Facility". Discontinued by ACN-211-77, November 2, 1977 and ACD-223-77, December 21, 1977.

**Subchapter 104. [Reserved]**

**Subchapter 105. [Reserved]**

**History**

"Energy Impact Mitigation Commission" (EIMC) §§ 3701-3704, was discontinued by CS-28-83, passed September 28, 1983.

**Subchapter 106. [Reserved]**

**Subchapter 107. [Reserved]**

**Chapter 6. Ethics in Government Law**

**Subchapter 1. Title and Purpose; Definitions**

**§ 3741. Title**

This Chapter may be cited as the Navajo Nation Ethics in Government Law.

**History**

CJY-23-92, July 20, 1992.

CF-11-88, February 4, 1988.

CAU-40-84, August 9, 1984.

**Note.** This Section was formerly § 3751. Amended generally by CJY-23-92.

**§ 3742. Legislative purpose and intent**

A. Purpose. Where government is founded upon the consent of the governed, the people are entitled to have complete confidence in the loyalty and integrity of their government. The purpose of the Navajo Nation Ethics in Government Law, therefore, is to require accountability to the people of the Navajo Nation by their elected, appointed and assigned public officials and employees in exercising the authority vested or to be vested with them as a matter of public trust, by:

1. Establishing and requiring adherence to standards of conduct to avoid such conflicts of interest as the use of public offices, employment or property for private gain, the granting and exchange of favored treatment to persons, businesses or organizations; and the conduct of activities by such officials and employees which permits opportunities for private gain or advantage to influence government decisions;

2. Requiring public officials and employees to abstain from using any function of their office or duties in a manner which could place or appear to place their personal economic or special interests before the interests of the general public.

B. Intent. It is the intention of the Navajo Nation Council that the provisions of this Navajo Nation Ethics in Government Law be construed and applied in each instance, so as to accomplish its purposes of protecting the Navajo People from government decisions and actions resulting from, or affected by, undue influences or conflicts of interest.

### **History**

CAP-49-99, April 23, 1999. Subsection (A)(2) repealed in elimination of economic disclosure statement requirements.

CJY-23-92, July 20, 1992.

**Note.** Formerly § 3752.

### **§ 3743. Definitions**

As used in this Chapter:

A. "Business" includes any enterprise, organization, trade, occupation or profession whether or not operated as a legal entity for profit, including any business, trust, holding company, corporation, partnership, joint venture, or sole proprietorship, consultant or other self-employed enterprise.

B. "Business with which the person is associated" includes any business in which the person or a member of the person's immediate family is a director, officer, partner, trustee or employee, holds any position of management or receives income in any form such as wages, commission, direct or indirect investment worth more than one thousand dollars (\$1,000) or holds any ownership, security or other beneficial interest, individually or combined, amounting to more than ten percent (10%) of said business.

C. "Candidate for public office" means any person who has publicly announced such intent, authorized promotion for, or filed a declaration of candidacy or a petition to appear on the ballot for election as a public official; and any person who has been nominated by a public official or governmental body for appointment to serve in any public capacity or office.

D. "Committee" means the Ethics and Rules Committee of the Navajo Nation Council.

E. "Compensation" or "income" means any money or thing of value received, or to be received as a claim on future services, whether in the form of a fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of recompense or any combination thereof.

F. "Confidential information" means information which by law or practice is not available to the public at large.

G. "Conflict of interest" means the reasonable foreseeability that any personal or economic interest of a public official, or employee, will be affected in any materially different manner from the interest of the general

public, by any decision, enactment, agreement, award or other official action or function of any governmental body or political subdivision of the Navajo Nation.

H. "Dependent business" means any business, as defined herein, in which the person or members of the person's immediate family, individually or combined, have any direct or indirect ownership, investment, security or other beneficial interest amounting to more than twenty percent (20%) of such business.

I. "Employee" means any person or entity working for, or rendering or exchanging any services or performing any act for or on behalf of another person, organization or entity in return for any form of pay or other compensation or thing of value received or to be received at any time temporarily, permanently or indefinitely, in any capacity; whether as agent, servant, representative, consultant, advisor, independent contractor or otherwise.

J. "Employment" means the status or relationship existing or created by and between a person designated or acting as an "employee" as defined herein and the person, organization, group or other entity for whom or on whose behalf any such work, acts, services or other benefit has been, is being or will be rendered or performed for pay or any other form of compensation.

K. "Economic interest" means an interest held by a person, members of the person's immediate family or a dependent business, which is:

1. Any ownership, income, investment, security or other beneficial interest in a business, or
2. Any employment or prospective employment for which negotiations have already begun.

L. "Gift" includes any gratuity, special discount, favor, hospitality, payment, loan, subscription, economic opportunity, advance, deposit of money, services, or other benefit received without equivalent consideration and not extended or provided to members of the public at large.

M. "Governmental body" means any branch, entity, enterprise, authority, division, department, office, commission, council, board, bureau, committee, legislative body, agency, and any establishment of the Executive, Administrative, Legislative or Judicial Branch of the Navajo Nation, and certified Chapters of the Navajo Nation.

N. "Immediate family" includes spouse, children and members of the household of public officials, public employees and candidates for public office, as defined in this Chapter.

O. "Ministerial action" means an action that a person performs in a given state of facts in a prescribed manner in obedience to the mandate of legal authority, without regard to, or in the exercise of, the person's own judgment upon the propriety of the action being taken.

P. "Official discretionary action" means any official function of public

office or employment, including any vote, decision, opinion, allocation, recommendation, approval, disapproval, finding, delegation, authorization, contract, commitment, settlement, disbursement, release or other action which involves the exercise of discretionary authority, for, on behalf of or in any manner affecting any interest or property of the Navajo Nation, including any governmental body, political subdivision or member thereof.

Q. "Public employee" means any employee, as defined herein, temporarily, periodically, permanently or indefinitely in the employment of the Navajo Nation, and/or any governmental body thereof as defined herein, including intergovernmental personnel.

R. "Public office" means any elected or appointed office or position of permanent or temporary employment in any governmental body of the Navajo Nation as defined herein.

S. "Public official" means any person holding an elective or appointed office in any governmental body of the Navajo Nation as defined herein, including grazing committee members.

#### **History**

CJY-23-92, July 20, 1992.

CF-11-88, February 4, 1988

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3758. The definition section of this Chapter was placed at the beginning as such sections generally do not appear at the end of statutes.

#### **Cross References**

Navajo Nation Election Code, see 11 N.N.C. § 1 *et seq.*

### **Subchapter 2. Standards of Conduct and Restricted Activities of Public Officials and Employees**

#### **History**

**Note.** Subchapter 2 was formerly designated § 3753.

#### **§ 3744. Conduct in conformity with applicable rules and laws**

Public officials and employees shall at all times conduct themselves so as to reflect credit upon the Navajo People and government; and comply with all applicable laws of the Navajo Nation with respect to their conduct in the performance of the duties of their respective office or employment.

#### **History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3753(A).

**§ 3745. General prohibitions; conflicts of interest**

A. No public official or employee shall use, or attempt to use, any official or apparent authority of their office or duties which places, or could reasonably be perceived as placing, their private economic gain or that of any special business interests with which they are associated, before those of the general public, whose paramount interests their office or employment is intended to serve.

B. It is the intent of this Subsection (B) that public officials and employees of the Navajo Nation avoid any action, whether or not specifically prohibited by the Standards of Conduct set out herein, which could result in, or create the appearance of

1. Using public office for private gain;
2. Giving preferential treatment to any special interest organization or person;
3. Impeding governmental efficiency or economy;
4. Losing or compromising complete independence or impartiality of action;
5. Making a government decision outside official channels; or
6. Adversely affecting the confidence of the people in the integrity of the government of the Navajo Nation.

**History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3753(B).

**§ 3746. Use of confidential information for private gain**

No public official or employee shall use or disclose confidential information gained in the course of or by reason of their official position or activities, to further their own economic and personal interest or that of anyone else.

**History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3753(C).

**§ 3747. Restrictions against incompatible interests or employment**

A. Public officials and employees shall not:

1. Have direct or indirect financial or other economic interests nor engage in such other employment or economic activity which, as determined in accordance with the provisions of this Chapter and other applicable laws of the Navajo Nation, necessarily involve inherent substantial conflict, or appears to have such substantial conflict, with their responsibilities and duties as public officials or employees of the Navajo Nation; nor

2. Engage in, directly or indirectly, financial or other economic transactions as a result of, or primarily depending upon, information obtained through their public office or employment; nor

3. Acquire any economic or other financial property, contractual or other economic interest at a time when they believe or have reason to believe, that it will directly and substantially affect or be so affected by their official actions or duties.

B. Subject to the restrictions and conditions set forth in this Chapter, public officials and employees are free to engage in lawful financial transactions to the same extent as the general public. Governmental bodies and agencies of the government of the Navajo Nation may, however, adopt further approved restrictions upon such transactions or employment as authorized herein and by other applicable laws of the Navajo Nation, in light of special circumstances or their particular duties.

C. No business or other entity shall employ a public official or employee if such employment is prohibited by or otherwise violates any provision of this Chapter.

D. The term "employment", within the meaning of this Section, includes professional services and other services rendered by a public official or employee, whether rendered as an employee, consultant or other independent contractor.

**History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3753(D).

**§ 3748. Abstention from official action**

A. When a public official or employee is required to take official action on a matter in which such public official or employee has a personal economic interest, they should first consider eliminating that interest. If that is not feasible nor required under § 3747 above, such public official or employee

shall:

1. Prepare and sign a written statement describing the matter requiring action and the nature of the potential conflict, as soon as such public official or employee is aware of such conflict and they shall deliver copies of such statement to the responsible party for inclusion in the official record of any vote or other decision or determination and also to the Ethics and Rules Committee;

2. Abstain from voting, sponsoring, influencing or in any manner attempting to influence any vote, official decision or determination which would favor or advance such person's personal economic interest in such matter; and

3. Abstain from voting or otherwise participating in the official decision or determination of such matter, unless otherwise directed by the authorized presiding official of the governmental body making such decision or determination, or otherwise legally required by law, (such as the vote of an elected representative delegate which is cast on behalf of his or her electorate constituents), or unless such person's vote, position, recommendation or participation is contrary to their personal economic interest.

B. Unless otherwise provided by applicable law, the abstention by such person from voting or otherwise participating in the official determination or decision shall not affect the presence of such person for purposes of establishing a quorum necessary for a governmental body, agency or commission to take such action or vote upon such matter.

C. Public employees shall also deliver a copy of such statement to the Committee and to their immediate superior, if any, who shall assign the matter to another. If such employee has no immediate superior, he or she shall take such steps as the Committee shall prescribe or advise, to abstain from influencing actions and decisions in the matter.

D. In the event that a public official's or employee's participation is otherwise legally required for the action or decision to be made, such person and the presiding official or immediate superior requiring such participation shall fully report the occurrence to the Committee.

#### **History**

CJY-23-92, July 20, 1992.

CF-11-88, February 4, 1988.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3753(E).

#### **Annotations**

##### **1. Construction and application**



"... Navajo Nation employees who are also elected officials are prohibited from claiming a salary while attending a meeting as an elected official, and are required to take annual leave or leave without pay to tend to their elected position duties. No 'flex time' is mentioned in the statute." *Barton v. Navajo Nation Ethics and Rules Office*, No. SC-CV-48-01, slip op. at 3 (Nav. Sup. Ct. September 15, 2003).

"While the ethics law prevents conflicts of interests, it also provides solutions that the parties can use." *Kirk, et al. v. Office of Navajo Labor Relations*, 7 Nav. R. 363, 365 (Nav. Sup. Ct. 1998).

**§ 3749. Navajo Nation government contracts; restrictions and bid requirements**

A. No public official or employee or any member of such person's immediate family shall be a party to, nor have an interest in the profits or benefits of, any governmental contract of the Navajo Nation or of any investment of funds of the Navajo Nation, unless the contract or the investment meets the following requirements:

1. The contract is let by notice and competitive bid or procurement procedures as required under all applicable laws, rules, regulations and policies of the Navajo Nation, for necessary materials or services for the governmental agency or entity involved;

2. If the continuous course of a business commenced before the public official or employee assumed his or her current term of office or employment;

3. The entire transaction is conducted at arm's length, with the governmental agency's full knowledge of the interest of the public official or employee or a member of his or her immediate family;

4. The public official or employee has taken no part in the determination of the specifications, deliberations or decision of a governmental agency with respect to the public contract; and

5. The public official or employee is not a member, office holder, employee or otherwise directly associated with the same governmental agency or entity primarily responsible for letting, performing, receiving, regulating or otherwise supervising the performance of the contract.

B. The requirements of § 3749(A) shall not apply to the negotiation, execution, award, transfer, assignment or approval of mineral or non-mineral leases, permits, licenses and like transactions other than contracts involving the investment, award or payment of government funds; provided, that such leases, permits, licenses and like transactions shall be subject to all other provisions of this Section and to all other applicable laws, rules and regulations of the Navajo Nation and its governmental bodies; and provided further that § 3749 (A) shall likewise fully apply to all contracting and other activities, conducted thereunder, which are subject to this Chapter. Provisions in accordance with the purposes and intent of this Chapter shall be incorporated as part of the rules, regulations and guidelines applicable to the negotiation, approval and assignment of such leases, permits, licenses and like

transactions.

C. In the absence of bribery or a purpose to defraud, a public official or employee or a member of his or her immediate family shall not be considered as having an interest in a public contract or the investment of public funds, when such a person has a limited investment interest of less than ten percent (10%) of the ownership of net assets, or an interest as creditor of less than ten percent (10%) of the total indebtedness of any business or other entity which is the contractor on the public contract involved or in which public funds are invested, or which issues any security therefor.

#### **History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3753(F).

#### **Cross References**

Contract requirements, see 2 N.N.C. § 223.

Navajo Business Preference Law, see 5 N.N.C. § 201 *et seq.*

#### **§ 3750. Restrictions on assisting or representing other interests before governmental bodies for compensation**

No public official or employee except an employee of a governmental body duly established and authorized for such purposes by the Navajo Nation shall represent or otherwise assist any person or entity other than the Navajo Nation or a governmental body or political subdivision thereof, for compensation, before any governmental body where the matter before the governmental body is of a non-ministerial nature. This Section shall not be construed to prohibit the duties of elected or appointed public officials to represent their constituents' interests before government agencies or entities nor the performance of ministerial functions, including but not limited to the filing or amendment of tax returns, applications for permits and licenses, and other documents or reports. It does, however, prohibit representation of such other interests for any fee or compensation in seeking to obtain any legislation, contract, payment of any claim or any other governmental benefit.

#### **History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3753(G).

#### **§ 3751. Restrictions on assisting or representing other interests subsequent to termination of public office or employment**

A. No former public official or employee nor partner, employee or other

associate thereof shall, with or without compensation, after the termination of such public office or employment, knowingly act as agent or attorney for or otherwise represent any other person or entity (except the Navajo Nation, its governmental bodies or political subdivisions) by formal or informal appearance nor by oral or written communication, for the purpose of influencing any governmental body of the Navajo Nation or any officer or employee thereof, in connection with any proceeding, contract, claim, controversy, investigation, charge or accusation, in which such former public official or employee personally and substantially participated, through approval, disapproval, recommendation, rendering of advice, investigation or otherwise, while so acting or employed.

B. With respect to any such matter which was actually pending among such former public official's or employee's responsibilities, but in which such person did not participate as set forth in Subsection (A), the prohibitions set forth hereunder shall apply for the period of two years following the termination of such public office or employment.

C. Nothing in this Chapter shall prevent a former public official or employee from appearing and giving testimony under oath, nor from making statements required to be made under penalty of perjury, nor from making appearances or communications concerning matters of a personal and individual nature which pertain to such former public official or employee or are based upon such person's own special knowledge of the particular subject involved, not otherwise privileged from disclosure by other applicable law; and provided further, that no compensation is thereby received other than that which is regularly provided for witnesses by law or regulation.

D. The Navajo Nation, its governmental bodies and political subdivisions shall not enter into any contract with, nor take any action favorably affecting or economically benefitting in any manner differently from members of the public at large, any person, business, governmental or other entity, which is assisted or represented personally in the matter by a former public official or employee whose official act, while a public official or employee, directly contributed to the making of such contract or taking of such action by the Navajo Nation or any governmental body or political subdivision thereof.

E. Nothing contained in this Subsection shall prohibit a former public official or employee from being retained or employed by the governmental entity which he or she formerly served.

#### **History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3753(H).

#### **§ 3752. Unauthorized compensation or benefit for official acts**

A. No public official or employee shall accept or receive any benefit, income, favor or other form of compensation for performing the official duties of their office or employment, beyond the amount or value which is authorized

and received in his or her official capacity for performing such duties.

B. This Section shall not be construed to prohibit the receipt of authorized compensation for the performance of other distinct and lawful public duties by public officials or employees.

C. No public official or employee, however, shall accept any benefit, income, favor or other form of compensation for the performance of the duties of any other office or employment not actually performed or for which such official or employee is not otherwise properly authorized or entitled to receive.

#### **History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3753(1).

#### **Annotations**

##### **1. Construction and application**

"... Navajo Nation employees who are also elected officials are prohibited from claiming a salary while attending a meeting as an elected official, and are required to take annual leave or leave without pay to tend to their elected position duties. No 'flex time' is mentioned in the statute." *Barton v. Navajo Nation Ethics and Rules Office*, No. SC-CV-48-01, slip op. at 3 (Nav. Sup. Ct. September 15, 2003).

##### **§ 3753. Unauthorized personal use of property or funds of the Navajo Nation**

No public official or employee shall use any property of the Navajo Nation or any other public property of any kind for other than as authorized and approved for official purposes and activities. Such persons shall properly protect and conserve all such property, equipment and supplies which are so entrusted, assigned or issued to them.

#### **History**

CJY-23-92, July 20, 1992. CAU-40-84, August 9, 1984.

**Note.** Formerly § 3753(J).

#### **Annotations**

##### **1. Construction and application**

*Re: conflicts of interest:* "This statute prohibits any conflict of interest, defined as having a direct or indirect interest in an activity which creates, or appears to create, a substantial conflict with the duties of office. It requires proof of an interest or stake in an activity which conflicts with one's duty to serve the public and not use the public position for personal

gain." *Navajo Nation v. MacDonald, Sr.*, 6 Nav. R. 432, 444 (Nav. Sup. Ct. 1991).

## **2. Transparency requirements**

*Re: gifts and loans:* "The statute prohibits the practice of businesses who have done business with the Navajo Nation giving a gift or benefit to influence continued favors. There, the Navajo Nation had to prove the identity of the official, the identity of the giver, and the nature of the gift or benefit." *Navajo Nation v. MacDonald, Sr.*, 6 Nav. R. 432, 443-444 (Nav. Sup. Ct. 1991).

### **§ 3754. Staff misuse prohibited**

No public official or employee shall employ, with funds of the Navajo Nation, any unauthorized person(s) nor persons who do not perform duties commensurate with such compensation, and shall utilize authorized employees and staff only for the official purposes for which they are employed or otherwise retained.

#### **History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3753(K).

### **§ 3755. Anti-nepotism**

No public official or employee shall employ, appoint, or otherwise cause to be employed, nor nominate, nor otherwise influence the appointment or employment to any public office or position with the Navajo Nation or any governmental or political subdivision thereof, any person or persons related by consanguinity or affinity within the third degree, nor any member of the same household as said public official or public employee. Assignment of such persons to duties, positions, governmental offices or other entities shall in all instances be made in strict compliance with the current provisions of the Personnel Policies and Procedures of the Navajo Nation, as amended from time to time.

#### **History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3753(L).

### **§ 3756. Restrictions against gifts or loans to influence official acts**

Except as otherwise provided herein or by applicable rule or regulation adopted hereunder by the Ethics and Rules Committee of the Navajo Nation Council, or by other applicable law, no public official or employee shall solicit or accept for himself/herself or another, any gift, including economic

opportunity, favor, service, or loan (other than from a regular lending institution on generally available terms) or any other benefit of an aggregate monetary value of one hundred dollars (\$100.00) or more in any calendar year, from any person, organization or group which:

A. Has, or is seeking to obtain, contractual or other business or financial relationships or approval from any governmental office or entity with which the public official or employee is associated or employed; or

B. Conducts operations or activities which are regulated or in any manner supervised by any governmental office or entity with which the public official or employee is associated or employed; or

C. Has any interest which, within two years, has been directly involved with, or affected by, the performance or non-performance of any official act or duty of such public official or employee or of the government office or entity with which the public official or employee is associated or employed or which the public official or employee knows or has reason to believe is likely to be so involved or affected.

#### **History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3753(M).

#### **§ 3757. Permitted gifts, awards, loans, reimbursements and campaign contributions**

Section 3756 shall not be construed to prohibit:

A. An occasional non-pecuniary gift, insignificant in value;

B. Gifts from and obviously motivated by family or social relationships, as among immediate family members or family inheritances;

C. Food and refreshments customarily made available in the ordinary course of meetings where a public official or employee may properly be in attendance;

D. An award or honor customarily-and publicly presented in recognition of public service; and/or

E. A political campaign contribution, in accordance with all applicable election laws and provided that such gift or loan is actually used in the recipient's political campaign for elective office of a governmental body or political subdivision thereof and provided further that no promise or commitment regarding the official duties of office or employment is made in return for such contribution.

#### **History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3753(N).

**§ 3758. Adoption of supplemental codes of conduct for official and employees of governmental entities of the Navajo Nation**

A. The chief executive or administrator of every governmental entity of the Navajo Nation which is subject to the provisions of this Chapter is authorized to submit for approval and adoption by the Committee such supplemental rules, regulations and standards of conduct for the public officials and employees of such entity, which are necessary and appropriate to the special conditions relating to their particular functions, purposes and duties and not in conflict with the purposes and other provisions of this Chapter. Upon adoption, such supplemental standards, rules and regulations shall be implemented in the same manner and to the extent applicable, as are all other standards, rules and regulations provided and adopted in accordance with the provisions of this Chapter.

B. The Ethics and Rules Committee is also authorized to adopt supplemental rules, regulations, and standards of conduct for all elected officials as defined by the Navajo Nation Code.

C. Other Navajo Nation Political Governing Bodies.

1. Other political governing bodies of the Navajo Nation are authorized and directed to draft, adopt, implement and administer standards of conduct, disclosure requirements and other procedures, rules and regulations in conformity with the purposes and provisions of this Chapter.

2. Any lawful authorization for any sponsorship or conduct of participation or involvement in any business activity by any political subdivision of the Navajo Nation shall be conditioned upon its prior adoption of such provisions, and enforcement thereof, as approved by the Committee.

D. The Committee and the Navajo Nation Department of Justice shall provide such assistance as needed and requested by such governmental entities and political governing bodies of the Navajo Nation, in the preparation and drafting of such supplemental and implementing provisions as authorized and which are not in conflict with the purposes and provisions of this Chapter.

**History**

CAP-19-02, April 16, 2002. Subsection (B) added and (C) amended.

CJY-23-92, July 28, 1992.

CF-11-88, February 4, 1988.

CD-93-85, December 4, 1985.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3753(0).

### **Subchapter 3. [Repealed]**

#### **History**

CAP-49-99, April 23, 1999. Subchapter 3 repealed in elimination of economic disclosure statement requirements.

### **Subchapter 4. Implementation and Compliance with Ethics in Government Law; Duties and Responsibilities; Investigation, Hearings, Findings, Reports and Recommendations**

#### **History**

**Note.** This Subchapter was formerly § 3756.

#### **§ 3766. Ethics and Rules Committee of the Navajo Nation Council—Powers and duties**

In accordance with all powers and authority as provided in 2 N.N.C. §§ 831-835 and in addition, the Committee shall have the specific duties, responsibilities and authority to:

A. Adopt, amend and publish rules and regulations to implement all provisions of this Chapter. Before such rules and regulations are enacted a 45-day public notice and comment period shall be allowed.

B. Ensure that all appropriate measures are taken for protecting the confidentiality of all statements, records, documents, other materials and information designated as such by this Chapter or by any other applicable rules or regulations of the Navajo Nation or other competent jurisdiction.

C. Provide written advisory opinions to guide the conduct and address specific questions when requested by officials and employees who are subject to this Chapter.

1. All opinions shall be confidential and maintained on record within the Ethics and Rules Office;

2. All opinions shall be binding upon the Committee, with regard to matters related to the specific request, until amended or revoked by the Committee.

D. The Committee may initiate and/or receive, review and/or investigate complaints filed with the Ethics and Rules Office.

E. The Committee shall conduct Administrative Hearings to determine violations or noncompliance with this Chapter. All Committee hearings shall follow Rules of Procedures established and adopted by the Committee. The



director shall be charged with the responsibility of representing the Navajo Nation in bringing forth all complaints filed under this Chapter.

#### **History**

CAP-49-99, April 23, 1999. Subsections (B) through (H) repealed in elimination of economic disclosure statement requirements.

CJY-23-92, July 20, 1992.

CD-93-85, December 4, 1985.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3756(A)(1)-(A)(10)(B). Also, new § 3766(F) slightly reworded for clarity.

#### **§ 3767. Retaliation prohibited**

A. Retaliation against any party or witness to a complaint shall be prohibited. Retaliation shall include any form of adverse or punitive action. This protection shall also be afforded to any person(s), including Ethics and Rules Office staff, offering testimony or evidence or complying with directives of the Committee.

B. Any violations shall be subject to penalties under this Chapter, as well as obstruction and contempt violations of both the civil and criminal codes of the Navajo Nation.

#### **History**

CF-11-88, February 4, 1988.

CJY-23-92, July 20, 1992.

**Note.** Formerly § 3756(A)(10). Also heading "Retaliation Prohibited" was added for organizational purposes.

#### **§ 3768. Dismissals**

Upon recommendation of the Ethics and Rules Office, the Committee may dismiss any complaint which the Committee determines has insufficient facts to constitute a violation or noncompliance to this Chapter; or if there is insufficient evidence to support the allegations; or if the Committee lacks personal and subject matter jurisdiction.

#### **History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3756(A)(11). Also, heading "Dismissals" was added for organizational purposes.

**§ 3769. Statute of Limitations**

No action shall be brought under this Chapter more than four years after cause of action has accrued.

**History**

CAP-50-99, April 23, 1999. Amended to reflect changes in appellate procedures.

**Note.** Formerly § 3756(A) (12).

CJY-23-92, July 20, 1992.

**§ 3770. Administrative hearings**

A. The Committee, in the capacity of a quasi-judicial body, shall conduct administrative hearings on any alleged violation or noncompliance.

B. The Ethics and Rules Office shall act in the capacity of complainant on matters to be heard by the Committee.

C. The Hearing body may impose or recommend any sanctions, civil damages, restitution, or other penalties provided in this Chapter, or refer their findings to other appropriate entities for action.

**History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3756(A) (13). Also, heading "Administrative Hearings" was added for organizational purposes.

**§ 3771. Appeals to Supreme Court**

A. The Supreme Court of the Navajo Nation shall have jurisdiction to hear appeals from final decisions. Appeals shall be limited to questions of law.

B. A notice of appeal shall be filed within 10 working days of the issuance of a written decision.

**History**

CAP-50-99, April 23, 1999. Amended to reflect changes in appellate procedures.

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3756(A) (14). Also, heading "Appeals to District Courts" was added for organizational purposes.

**§ 3772. Deliberations by the committee**

In any complaint where the accused is the President, Vice-President, Chief Justice, or other judges of the Navajo Nation, Chapter official or a Council Delegate, the Ethics and Rules Committee, upon completion of the administrative hearing, shall deliberate in executive session and by resolution render its findings of facts, conclusions of law and recommendations for sanction.

**History**

CAP-50-99, April 23, 1999. Amended to reflect changes in appellate procedures.

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3756(A)(15)(a). Also, heading "Recommendations to the Navajo Nation Council for Certain Officials" was added for organizational purposes.

**§ 3773. [Repealed]**

**§ 3774. Committee's power as a quasi-judicial body**

A. The Committee shall hold in contempt any person found disobeying any lawful order, process writ, finding or direction of the Committee.

B. The Committee is authorized to administer oaths and issue subpoenas to compel attendance and testimony of witnesses, or to produce any documents relevant to the matter before the Committee.

C. The Committee shall maintain a complete record of all hearings, including all testimony and documents presented as evidence.

D. The Committee shall not be bound by formal rules of evidence.

E. The Committee shall conduct all hearings in open session. All records, transcripts, and other documents in the possession of the office shall remain confidential unless such information are submitted by the office as evidence.

F. The Committee shall cause a copy of any order or decision to be delivered to the appropriate branch of the government.

**History**

CJY-23-92, July 20, 1992

**Note.** Formerly § 3756(B).

**§ 3775. Committee conflict of interest**

No Committee member shall hear matters before the Committee which involve a member of his/her immediate family and/or personal economic interest.

### **History**

CJY-23-92, July 20, 1992.

**Note.** Formerly § 3756(C).

### **§ 3776. Independent legal counsel**

Subject to all applicable laws, the Committee may obtain independent legal counsel to assist and advise the Committee.

### **History**

CJY-23-92, July 20, 1992

**Note.** Formerly § 3756(D).

### **§ 3777. Special prosecutors**

A. Notwithstanding any provision in this Chapter, any Special Prosecutor appointed pursuant to 2 N.N.C. §§ 2021-2024 shall have the following powers and authority in connection with any administrative proceeding under this Chapter, exercisable in the name of the Navajo Nation, with respect to any matter within such Special Prosecutor's jurisdiction:

1. To file a complaint with the Committee alleging a violation of this Chapter by any person subject thereto;
2. To prosecute the complaint and represent the Navajo Nation's interest in any and all proceedings thereon;
3. To exercise an unconditional right to intervene and be substituted as the complainant in any proceeding pending under this Chapter, without regard to the stage of such proceedings; and

B. In the event of any administrative proceeding under this Chapter in which the Navajo Nation, through a Special Prosecutor, is a complainant against a person, any other complaint filed against such person hereunder (whether filed before or after the date on which the Navajo Nation became complainant) shall abate and shall be dismissed without prejudice, as to any common allegation of prohibited conduct.

### **History**

CAP-50-99, April 23, 1999. Amended to reflect changes in appellate procedures.

CJY-23-92, July 20, 1992.

**Note.** Formerly § 3756(E) and (F). Also, heading "Special Prosecutors" added for organizational purposes.

### **§ 3778. [Repealed]**

**§ 3779. Other relief not barred**

Nothing herein shall be construed as foreclosing the right of the Navajo Nation, through a Special Prosecutor or otherwise, to initiate proceedings to secure the relief and sanctions referred to in §§ 3781 or 3782 of this Chapter.

**History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3756(1).

**Cross References**

Civil penalties, see 2 N.N.C. §§ 3780, 3781 (D) and 3782(F).

**Subchapter 5. Sanctions and Penalties**

**§ 3780. Administrative sanctions; collection of judgments**

A. Upon finding that there has been violation of any provision of this Chapter, the Committee may impose any or all of the following penalties or sanctions:

1. Removal, discharge or termination from public office or employment in accordance with applicable Navajo Nation law and procedure.

2. Disqualification for all elective public offices of the Navajo Nation and/or appointment to or employment in any public office of the Navajo Nation, for five years from the effective date of removal, discharge or any other termination of public office or employment of the Navajo Nation.

3. Suspension from public office or employment and forfeiture of all compensation and benefits accruing therefrom, for not less than 30 days nor for more than one year.

4. Accordingly, any public employee of the Navajo Nation shall be subject to discipline, including suspension without pay or other benefits and dismissal as provided by other laws, regulations and personnel policies or procedures applicable thereto.

5. Issuance of a written public reprimand, which shall be entered into such person's permanent record of employment or office and upon the permanent record of the public office or entity of which such person is a member or employee, according to provision of applicable Navajo Nation law and procedures.

6. Issuance of a private reprimand to such person, with or without suspension of any or all other sanctions provided herein.

7. Imposition of restitution or such other civil penalties as hereinafter provided under § 3781.

B. Any person who is found to have violated any provisions of this Chapter shall forfeit any elective public office. This forfeiture provision shall not apply to any person against whom the only sanction imposed under § 3780(A) is for a suspension from public office, or a written public reprimand, or private reprimand, or restitution of less than one thousand dollars (\$1,000).

C. No sanctions or penalty provided herein shall limit any other powers of the Navajo Nation Council, Navajo Nation Courts, Judicial, Executive or Legislative Branches of the Navajo Nation, nor of any other entity or administrative officials or employees under other applicable law, rules, regulations or procedures.

D. Judgments issued pursuant to the Ethics in Government Law which include the payment of money may be collected in any manner authorized for recovery of debts owed the Navajo Nation, including but not limited to garnishment proceedings as authorized by Navajo Nation law and offset provisions of the Navajo Nation Business and Procurement Act, 12 N.N.C. § 1501 *et seq.*

#### **History**

CAP-22-05, April 20, 2005.

CAP-51-99, April 23, 1999. Subsection (B) amended.

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3757(A).

#### **Annotations**

##### **1. Jurisdiction, generally**

" ... [S]ection 3780(C) does not give this Court appellate jurisdiction over final decisions of the Ethics and Rules Committee finding Navajo Nation Council delegates in violation of the Ethics in Government Law." *Vandever, v. The Navajo Nation Ethics and Rules Office*, 7 Nav. R. 356, 357 (Nav. Sup. Ct. 1998).

##### **§ 3781. Other civil damages**

A. A person found in violation of this mandate shall be further subject to, and personally liable for the following provisions, without regard to the imposition of any administrative sanction or criminal conviction:

1. Any public official or employee who violates any economic disclosure or reporting requirement of this Chapter may be held liable to the Navajo Nation for civil damages in an amount not to exceed the value of any interest not properly reported.

2. Any public official or employee who realizes an economic benefit as a result of violation of any prohibition or restriction set forth in Subchapter 2 and 3 of this Chapter shall be liable to the Navajo Nation for civil damages in an amount not exceeding three times the amount or value of the benefit or benefits so obtained.

B. If two or more persons are responsible for any violation, each of them shall be liable to the Navajo Nation for the full amount of any civil damages prescribed herein, the full amount of which may be imposed upon and collected from each of them individually.

C. Any civil penalties imposed hereunder shall be collected in any manner authorized for recovery of debts or obligations owed to the Navajo Nation and shall be paid into the General Fund of the Navajo Nation.

D. No imposition of any or all civil damages provided herein shall be a bar to institution of any civil, criminal or misdemeanor action, liability, judgment, conviction or punishment otherwise applicable hereto, nor shall determination of any such civil damages be barred thereby.

#### **History**

CJY-23-92, July 20, 1992, added Subsection (A).

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3757(B).

#### **§ 3782. Misdemeanor violations; punishments**

The Navajo Nation, through the Office of the Prosecutor or Special Prosecutor shall be responsible for the enforcement of the following Subsection.

A. Any person who is convicted or found guilty of knowingly and willfully violating any provision of Subchapter 2 of this Chapter is guilty of a misdemeanor and for a first offense shall be fined not more than five hundred dollars (\$500.00) and may be sentenced to imprisonment for not more than 180 days, or both.

B. Any person knowingly and willfully filing any complaint authorized under this Chapter or by any other applicable law, without just cause and with malice or other improper purpose, including personal, political or other harassment or embarrassment, shall be guilty of a misdemeanor and for a first offense shall be fined not more than five hundred dollars (\$500.00) and may be sentenced to imprisonment for not more than 180 days, or both.

C. Upon conviction of any subsequent offense prescribed in Subsection (A) or (B) of this Section, such person shall be fined not less than five hundred dollars (\$500.00) and shall be sentenced to imprisonment of not less than 30 days nor more than 180 days.

D. A person convicted of a misdemeanor under this Chapter shall not be a

candidate for elective public office, nor be eligible for any appointive office of the Navajo Nation, nor any of its governmental entities or political governing bodies; for five years following the date of conviction.

E. A plea of nolo contendere shall be deemed a conviction for purposes of this Chapter.

F. No criminal or misdemeanor action, judgment, conviction or punishment hereunder shall operate to bar any action for civil damage or penalty or imposition of any administrative sanction provided hereunder, nor be barred thereby.

#### **History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3757(C).

#### **§ 3783. Severability**

If any provision of this Chapter or the application of such provision to any person, firm, association, corporation or circumstances shall be held invalid, the remainder of the Chapter and the application of such provision to persons, firms, associations, corporations or circumstances other than those as to which it is held invalid shall not be affected thereby.

#### **History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3759.

#### **§ 3784. Effective date**

The effective date of all provisions of this Navajo Nation Ethics in Government Law shall be October 8, 1984.

#### **History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3760.

#### **§ 3785. Prior inconsistent law superseded**

Upon the effective date of this Navajo Nation Ethics in Government Law, all prior inconsistent enactments, laws, rules, policies, ordinances and regulations of the Navajo Nation and all branches, divisions, departments,



offices and political subdivisions thereof, are superseded hereby and/or amended to comply herewith.

#### **History**

CJY-23-92, July 20, 1992.

CAU-40-84, August 9, 1984.

**Note.** Formerly § 3761.

### **Subchapter 6. Ethics and Rules Office**

#### **§ 3786. Establishment**

There is hereby established the Ethics and Rules Office within the Navajo Nation government.

#### **History**

ACJA-3 5-89, January 26, 1989.

ACJN-109-85, June 12, 1985.

CAU-40-84, August 9, 1984.

ACMA-35-84, March 14, 1984.

CJA-1-83, January 25, 1983.

**Note.** This Section was redesignated as "3786" (formerly § 3771).

#### **§ 3787. Purpose and objectives**

The purposes and objectives of the Ethics and Rules Office shall be:

A. To provide administrative assistance to the Ethics and Rules Committee of the Navajo Nation Council in ensuring adherence to legislative mandates under the Navajo Nation Ethics in Government Law, Ethics and Rules Committee Plan of Operation, and other applicable laws of the Navajo Nation;

B. To represent the interests of the Navajo Nation in maintaining the highest standards of ethical conduct by the elected and appointed public officials, officers and representatives of the Navajo Nation in the performance of their public and official duties and functions (includes candidates and public employees);

C. To maintain and make available for official information complete and current written records of all laws, resolutions, rules, regulations and other official enactments, rulings, decisions or opinions relating to requirements, prohibitions or standards of ethical conduct;

D. To protect the interests of the Navajo People in ensuring fair, honest

and efficient conduct of the government of the Navajo Nation, in accordance with the laws of the Navajo Nation and the will of the Navajo People, through review, recommendation and sponsorship of projects, legislation, rules and standards in furtherance of these ends; and

E. To assist the Ethics and Rules Committee with its statutory duties and responsibilities.

#### **History**

IGRD-316-08, December 17, 2008.

ACJN-109-85, June 12, 1985.

**Note.** Formerly § 3772.

#### **§ 3788. Personnel and organization**

A. There is established the position of Director for the Ethics and Rules Office and administrative/secretarial staff as may be budgeted by the Navajo Nation Council.

B. The Ethics and Rules Committee and the Executive Director of the Office of Legislative Services shall have the authority to employ the Director of the Ethics and Rules Office.

C. The Director shall have the authority to hire the administrative/secretarial staff, pursuant to the Navajo Nation Personnel Policies Manual.

D. All Ethics and Rules Office personnel, including the Director, shall be subject to and entitled to the benefits of the Navajo Nation Personnel Policies Manual.

E. The Director of the Ethics and Rules Office shall be administratively responsible to the Executive Director, Office of Legislative Services, in carrying out policies authorized and directed by the Ethics and Rules Committee of the Navajo Nation Council, as provided under Section 3787 of this Subchapter.

#### **History**

IGRD-316-08, December 17, 2008.

ACJN-109-85, June 12, 1985.

**Note.** Reference to organizational chart omitted for purposes of statutory form; this Section was formerly § 3773.

#### **§ 3789. Duties, responsibilities and authority**

A. The Director shall be a member, in good standing, of the Navajo Nation Bar Association; he or she shall have the authority necessary and proper to carry out the purposes set forth in § 3787 of this Chapter and the Navajo

Ethics in Government Law.

B. Under general direction, the Director of the Ethics and Rules Office shall have the duties, responsibility, and authority to assist the Ethics and Rules Committee of the Navajo Nation Council to:

1. Provide recommendations to the Ethics and Rules Committee concerning rules and regulations necessary to implement provisions of the Navajo Nation Ethics in Government Law and to publish same after proper approval;

2. Maintain records of written advisory opinions issued by the Ethics and Rules Committee on the requirements of the Navajo Nation Ethics in Government Law, upon request from persons whose conduct is subject thereto and who have specific need to use such opinions;

3. Assist investigators of the Ethics and Rules Office with receiving, examining and investigating reports of alleged violations of the Navajo Ethics in Government Law or rules and regulations thereto;

4. Determine, with the assistance of Presenting Officers, whether formal ethics complaints will be filed with the Ethics and Rules Committee; delegate any or all duties and responsibilities over certain cases to Presenting Officers;

5. Present, on behalf of the Navajo Nation, all cases before the Ethics and Rules Committee;

6. Educate officials, employees and programs of the Navajo Nation, including chapters, on the intent, purpose and requirements of the Navajo Ethics in Government Law;

7. Assist in conducting public hearings on matters involving ethics in government; and

8. Prepare the annual proposed annual budget for the Ethics and Rules Office and the Ethics and Rules Committee.

#### **History**

IGRD-316-08, December 17, 2008.

ACJN-109-85, June 12, 1985.

**Note.** Slightly reworded for purposes of statutory clarity; this Section was formerly § 3774.

#### **§ 3790. Political practices prohibited**

The staff shall not, for the purpose of personal gain, use any information or conduct any proceedings for the intent of causing harm or injury to the political standing or reputation of any member of the Navajo Nation Council, the President and Vice-President of the Navajo Nation, or any other employee, or officer of the Navajo Nation.

### **History**

ACJN-109-85, June 12, 1985.

**Note.** Formerly § 3775.

### **§ 3791. Legislative oversight**

The Ethics and Rules Committee shall be the legislative oversight committee for the Ethics and Rules Office pursuant to 2 N.N.C. § 834(B) (7).

### **History**

IGRD-316-08, December 17, 2008.

**Note.** Former § 3791, "Office location and hours" as approved by ACJN-109-85, June 12, 1985, was deleted and amended by IGRD-316-08, December 17, 2008.

ACJN-109-85, June 12, 1985.

**Note.** Formerly § 3776.

### **§ 3792. Construction**

Nothing contained in this Plan of Operation shall be construed to limit the authority of the Ethics and Rules Committee of the Navajo Nation Council and/or their representatives in ensuring adherence to and carrying out the legislative intent of the Navajo Nation Ethics in Government Law and the Ethics and Rules Committee's Plan of Operation, and all applicable laws of the Navajo Nation.

### **History**

ACJN-109-85, June 12, 1985.

**Note.** Formerly § 3777.

### **§ 3793. Amendments**

This Plan of Operation may be amended by the Ethics and Rules Committee of the Navajo Nation Council subject to the approval of Intergovernmental Relations Committee of the Navajo Nation Council.

### **History**

ACJN-109-85, June 12, 1985.

**Note.** Formerly § 3778. Also, reference to "Advisory Committee" deleted and substituted therein is the "Intergovernmental Relations Committee" pursuant to 2 N.N.C. § 824(B) (1), CD-68-89, December 15, 1989.

## **Chapter 7. Navajo Nation Ethics in Government Law Garnishment Act of**

2005

**§ 3800. Title**

This Act shall be entitled and referred to as the Navajo Nation Ethics in Government Law Garnishment Act of 2005.

**History**

CAP-22-05, April 20, 2005.

**§ 3801. Purpose**

The purpose of this Act is to allow the remedy of garnishment in the collection of judgments issued by the Ethics and Rules Committee pursuant to the Navajo Nation Ethics in Government Law, 2 N.N.C. § 3741 *et seq.*

**History**

CAP-22-05, April 20, 2005.

**§ 3802. Findings**

The Navajo Nation Council finds that:

A. The Ethics and Rules Committee of the Navajo Nation Council conducts hearings for alleged violations of the Navajo Nation Ethics in Government Law, 2 N.N.C. § 3741 *et seq.* These hearings involve public elected officials and Navajo Nation employees.

B. Sanctions for violations of the Navajo Nation Ethics in Government Law include removal from or disqualification for elected office, termination of employment, payment of fines and restitution, reprimand and other penalties.

C. Nonpayment of fines and restitution ordered pursuant to the Ethics in Government Law is a growing concern.

**History**

CAP-22-05, April 20, 2005.

**§ 3803. General**

A. The remedy of garnishment shall be available for only collection of civil damages, restitution, fines, and/or penalties pursuant to a judgment, *i.e.*, order or decision, duly issued under the Navajo Nation Ethics in Government Law.

B. The remedy of garnishment is applicable to any of the following:

1. Nonrestricted earnings owing to a judgment debtor by a garnishee.

2. Nonrestricted assets, including nonrestricted monies, held by a garnishee on behalf of a judgment debtor.

3. Personal property of a judgment debtor that is in the possession of a garnishee.

4. Shares and securities of a corporation or a proprietary interest in a corporation belonging to a judgment debtor, if the garnishee is a corporation.

C. A judgment creditor, or the Navajo Nation Office of Ethics and Rules on behalf of a judgment creditor, in whose favor a money judgment is awarded by the Ethics and Rules Committee of the Navajo Nation Council for violations of the Navajo Nation Ethics in Government Law may apply for writ of garnishment for its enforcement at any time within 10 years after entry of the judgment.

D. A judgment creditor may apply for as many writs of garnishment as are necessary to collect the entire amount of the judgment.

E. Jurisdiction over garnishment actions initiated pursuant to a judgment issued under the Navajo Nation Ethics in Government Law shall lie solely with the courts of the Navajo Nation.

### **History**

CAP-22-05, April 20, 2005.

### **§ 3804. Definitions**

For the purpose of garnishment under this Act, the following words shall have the following meanings, unless the context otherwise requires:

A. Assets. Interests in personal property and monies including, among other items, chattels, cash, bank accounts, securities, notes, and accounts receivable, but not including earnings or interests in real property.

B. Disposable Earnings. That part of the earnings of a judgment debtor remaining after the deduction from those earnings of any amounts required by law to be exempted or withheld, e.g., FICA, Medicare, federal income tax.

C. Earnings. Compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise.

D. Federal Minimum Hourly Wage Rate. The highest federal minimum hourly wage rate for an eight-hour day and a 40-hour week. It is immaterial whether the garnishee is exempt from paying the federal minimum hourly wage rate.

E. Garnishee. The third person or entity, including Navajo Nation enterprises, entities, authorities, and corporations, in control or possession of the earnings or assets which are the subject of the garnishment proceeding.

F. Garnishment. Legal procedure through which the earnings or any other asset of a judgment debtor are required to be withheld by a third party and, upon subsequent court order, released to a judgment creditor for payment of a

debt which has been reduced to judgment under the Navajo Nation Ethics in Government Law.

G. Judgment Creditor. A person or entity, including the Navajo Nation and its branches, divisions, departments, programs, enterprises, boards, commissions, and chapters, that has a money judgment in its favor pursuant to an order or decision duly issued under the Navajo Nation Ethics in Government Law that is due and unpaid.

H. Judgment Debtor. A person against whom a money judgment has been awarded pursuant to an order or decision duly issued under the Navajo Nation Ethics in Government Law.

I. Order of Garnishment. Court order directing the garnishee to pay, transfer and/or release nonrestricted earnings or assets of the judgment debtor in the amount or a portion of the amount stated in the writ of garnishment plus costs and fees to the judgment creditor in a specified manner and at a specified time.

J. Restricted Earnings and Assets. That portion of earnings and/or assets that are exempt from attachment in a garnishment proceeding, including those earnings and assets deemed exempt and restricted by this Act.

K. Writ of Garnishment. Preliminary court order issued through the Clerk of Court directing the garnishee not to pay, transfer and/or release nonrestricted earnings or assets of the judgment debtor in the amount or a portion of the amount stated in the writ of garnishment and directing the garnishee to file an answer to the writ of garnishment and directing the garnishee to serve the writ of garnishment on the judgment debtor.

### **History**

CAP-22-05, April 20, 2005.

### **§ 3805. Issuance of writ of garnishment; answer; objection; order**

In accordance with the rules for garnishment proceedings, as enacted pursuant to 7 N.N.C. § 601:

A. Upon the filing of a proper petition, a writ of garnishment in the amount of the judgment or portion thereof as stated in the petition shall be issued by the Clerk of Court and directed to the garnishee.

B. The garnishee shall file an answer to the writ of garnishment and serve the writ of garnishment, as well as the answer, on the judgment debtor.

C. The judgment debtor or other interested person or entity may file an objection to the writ of garnishment or the answer of the garnishee.

D. If the answer shows that the garnishee was holding nonexempt monies or personal property of the judgment debtor or that the judgment debtor is an employee of the garnishee entitled to future earnings and if no objection to the writ of garnishment is filed, the court will, without hearing issue an order of garnishment.

E. If an objection to the writ of garnishment is filed and/or the conditions precedent of Subsection (D) are not met, the court will hear the matter without a jury prior to issuing an order of garnishment or ordering the garnishment stopped.

#### **History**

CAP-22-05, April 20, 2005.

#### **§ 3806. Limitations upon transfers by garnishee**

A. From and after service of the writ of garnishment and until the court issues the garnishment stopped, the garnishee shall not pay, transfer or release any unrestricted asset in the garnishee's possession or under the garnishee's control to which the judgment debtor has an interest or pay and/or release unrestricted earnings owing to the judgment debtor.

B. The garnishee shall be liable to the judgment creditor for any such payment, transfer, or release prohibited above.

#### **History**

CAP-22-05, April 20, 2005.

#### **§ 3807. Possession by judgment debtor**

A. At any time before an order of garnishment is issued, the judgment debtor may take possession of any earnings or assets withheld by the garnishee by filing with the court (1) a bond payable to the garnishee in the amount, including costs and fees, set forth in the application for the writ of garnishment, or (2) a bond payable to the garnishee for the value of the earnings and assets to be garnished. The bond shall be conditioned upon the payment of any judgment that may be given against the garnishee or for payment of the value of the property garnished.

B. When the judgment debtor provides a bond, he may make any objection which the garnishee could make in such action. With or without bond, the judgment debtor may assert any legal objections he may have to the writ of garnishment.

C. If judgment debtor takes possession of property under this Section and judgment on garnishment is given in favor of the judgment creditor, it shall be against the judgment debtor and the sureties on the judgment debtor's bond for the amount of such judgment.

#### **History**

CAP-22-05, April 20, 2005.

#### **§ 3808. Restrictions on discharge from employment by reason of garnishment**

A. No employer may discharge any employee by reason of the fact that his or her earnings have been subject to garnishment.



B. An employer who willfully violates Subsection (A) of this Section shall be assessed a civil liability of not more than one thousand dollars (\$1,000) payable to the employee.

#### **History**

CAP-22-05, April 20, 2005.

#### **§ 3809. Exemptions and restrictions**

The following earnings and assets shall be restricted and exempt from garnishment:

- A. Benefits paid by the Social Security Administration;
- B. Railroad retirement benefits under the Railroad Retirement Act of 1974, 45 U.S.C. § 231;
- C. Retirement benefits, including Civil Servant's Retirement benefits under 5 U.S.C. § 8331 *et seq.* and benefits payable by the Navajo Nation pursuant to Navajo Nation defined contribution and/or defined benefit retirement plans;
- D. Military annuities under 10 U.S.C. § 1440;
- E. Social welfare benefits including, but not limited to:
  - 1. Aid to Families with Dependent Children, or its successor; and
  - 2. General Assistance;
- F. All monies received by or payable to the judgment debtor pursuant to a child support order;
- G. Earnings payable by the judgment debtor pursuant to a child support order;
- H. Earnings and assets restricted or excepted under 15 U.S.C. § 1671 *et seq.*; and,
- I. Interests in real property.

#### **History**

CAP-22-05, April 20, 2005.

#### **§ 3810. Maximum allowable earnings subject to garnishment**

The maximum amount of earnings subject to garnishment shall not exceed the lesser of:

- A. Fifteen percent (15%) of the judgment debtor's disposable income for any pay period; or

B. The amount by which the judgment debtor's disposable income exceeds 30 times the federal minimum wage (based on a 40 hour work week) in effect at the time the earnings are payable.

#### **History**

CJY-18-07, July 19, 2007.

CAP-22-05, April 20, 2005.

### **Chapter 8. Personnel**

#### **§ 3900. Drug and Alcohol Testing Policies**

The Navajo Nation Council hereby sanctions the adoption of drug and alcohol testing policies for all Navajo Nation employees who perform safety-sensitive functions. Such policies may vary in scope and detail depending on contractual requirements and/or employment functions to be performed by Navajo Nation employees.

#### **History**

CD-111-95, December 21, 1995.

### **Chapter 9. Navajo Nation Chapters**

#### **Subchapter 1. [Repealed]**

#### **Subchapter 3. [Repealed]**

#### **History**

CAP-34-98, April 20, 1998. Enactment of the Navajo Nation Local Governance Act.

### **Subchapter 5. Chapter Development Committees**

#### **History**

The Chapter Managers Program formerly at Subchapter 7 was discontinued by CJY-621-91, July 23, 1991. See now 2 N.N.C. § 990 *et seq.*, the Community Services Program and the role of Community Services Coordinators.

#### **§ 4041. Establishment**

Chapter Development Committees are hereby established.

#### **History**

ACMA-25-82, March 10, 1982.

#### **§ 4042. Purpose**

The purposes of a Chapter Development Committee are:

A. To advise, make recommendations, and assist the Chapter concerning all matters related to comprehensive Chapter planning and development for Chapter projects funded through the Navajo Nation government and other funding sources.

B. To review, prioritize and submit written recommendations at the direction of the Chapter for proposed Chapter development projects, to be prepared to offer alternatives to those projects, and to defend and explain those alternatives.

C. To promote coordination and working relationships among local residents, pursuant to the direction of the Chapter government, and the divisions and departments of the Navajo Nation government.

D. To utilize the services of Community Development Specialists from the Division of Community Development and the services of the Navajo Nation, Bureau of Indian Affairs, United States Public Health Service, and other agency personnel to obtain technical advice, assistance, and recommendations in order to carry out community planning and projects.

E. To submit necessary reports, correspondence, forms, and other documents, as required, to the Chapter, to the Division of Chapter Development, and to other agencies requiring such information.

F. To assist the Chapter in implementing approved Chapter projects, if the Chapter so delegates.

G. To assist with the review and make recommendations to the Chapter for developmental land use permits, including business site leases, homesite leases, and mission site leases within the Chapter planning area.

#### **History**

ACMA-25-82, March 10, 1982.

**Note.** Slightly reworded for purposes of statutory form.

References to "Division of Chapter Development" at Subsections (D) and (E) deleted pursuant to GSCO-60-91; substituted therefore is "Division of Community Development."

#### **§ 4043. Authority**

A Chapter Development Committee shall serve solely as an advisory committee of the Chapter in order to recommend various Socio-economic Chapter development projects. The Chapter Development Committees shall in no way have any authority over the local Navajo Chapters.

#### **History**

AMA-25-82, March 10, 1982.

#### **§ 4044. Creation**

All Chapter Development Committees shall be created by Chapter resolution at a duly called meeting of the Chapter at which a quorum is present.

#### **History**

ACMA-25-82, March 10, 1982.

#### **§ 4045. Membership; qualifications**

A. Membership. Each Chapter Development Committee shall consist of at least five members, and additional non-voting technical advisers, if desired by the Chapter.

B. Qualifications. Each Chapter Development Committee member must be at least 18 years of age and an enrolled member of the Navajo Nation.

#### **History**

ACMA-25-82, March 10, 1982.

#### **§ 4046. Selections; certification; tenure; compensation; removal**

A. Selection. All members of the Chapter Development Committee shall be selected at a duly called Chapter meeting at which a quorum is present and their selection shall be set forth in a certified written resolution.

B. Certification. The Division of Community Development shall certify the selection of the Committee exclusively for purposes of compensation of five committee members, upon receipt of a certified Chapter resolution setting forth the designated Chapter Development Committee members.

C. Tenure. Chapter Development Committee members shall serve one year terms to coincide with funding cycles.

D. Compensation.

1. The Division of Community Development shall provide a stipend of twenty dollars (\$20.00) (subject to program funds) to each of five Committee members to insure the greatest possible effort on the part of the Committee members in executing the purposes of the Chapter Development Committee. Additional Committee members and/or technical advisers can be compensated by the Chapter out of Chapter funds, if the Chapter so desires.

2. The monies provided by the Division of Community Development shall be contingent upon the availability of federal funding sources.

E. Removal.

1. Grounds. Any member of the Chapter Development Committee may be removed:

a. Upon recommendation to the Chapter by the other members of

the Chapter Development Committee.

b. Upon any other grounds established by the Chapter by means of a duly certified Chapter resolution.

2. Removal.

a. Any member of a Chapter Development Committee may be removed by majority vote of the quorum of a Chapter at a duly called Chapter meeting.

b. The Division of Community Development must be notified by certified Chapter resolution within two weeks of the removal of a Committee member in order to facilitate termination of compensation payments.

**History**

ACMA-25-82, March 10, 1982.

**Note.** References to "Division of Chapter Development" at Subsections (B) and (D) deleted pursuant to GSCO-60-91; substituted therefore is "Division of Community Development."

**§ 4047. Officers; selection; duties; removal**

A. Selection. At its initial meeting, the members of each Chapter Development Committee shall select a Chairperson, a Vice-Chairperson, and a Secretary.

B. Duties.

1. The Chairperson shall call and preside over all duly called meetings of the Committee.

2. The Vice-Chairperson shall preside at all Chapter Development Committee meetings in the absence of the Chairperson and perform such other duties as assigned by the Chairperson.

3. The Chapter Development Committee Secretary shall maintain all minutes of Committee meetings, the permanent files of the Committee, and shall perform other duties as assigned by the Chairperson.

C. Removal. The officers of the Chapter Development Committee shall serve a one year term in their official capacity, unless removed as an officer by a majority vote of the other Chapter Development Committee members.

**History**

ACMA-25-82, March 10, 1982.

**§ 4048. Meetings; quorum; procedure**

A. A Chapter Development Committee shall have one compensated meeting per

month, but additional meetings may be compensated out of Chapter funds if the Chapter so desires. All Chapter Development Committee meetings shall be open to the public. Notice of all Chapter Development Committee meetings shall be posted at least one week in advance.

B. A simple majority of the Committee members shall constitute a quorum.

C. "Robert's Rules of Order" shall be utilized at all Chapter Development Committee meetings, and all actions shall be taken by certified resolutions, or written memoranda, setting forth the action taken and filed with the Chapter Secretary and the Division of Community Development.

#### **History**

ACMA-25-82, March 10, 1982.

**Note.** Reference to "Division of Chapter Development" at Subsection (C) deleted pursuant to GSCO-60-91; substituted therefore is "Division of Community Development."

### **Subchapter 7. [Reserved]**

#### **History**

§ 4061-4068, the Chapter Manager's Program was repealed and was replaced with the Community Services Program by CJY-61-9 1, July 19, 1991. See 2 N.N.C. Article 5, § 990.

### **Subchapter 9. Kayenta Township Home Rule**

#### **§ 4081. Establishment**

There is established the Kayenta Township created as a home rule municipality under the governance of the Kayenta Township Commission.

#### **History**

CAU-47-03, August 29, 2003, Overrode veto of Resolution CJY-42-03.

CJY-42-03, July 25, 2003, Amended section to create Kayenta Township as home rule municipality.

CN-86-85, November 5, 1985.

#### **§ 4082. Purposes; goals**

A. The Navajo Nation recognizes that the Kayenta Township has undergone the first stages of rapid and accelerated development.

B. The Kayenta Chapter and Kayenta Township have through joint planning, executing and evaluating developed an improved system of local government. The Navajo Nation fully supports this effort.

C. The establishment of the Kayenta Township as a home rule municipality is for the purpose of authorizing the local governance of Kayenta Township by the Kayenta Township Commission.

#### **History**

CAU-47-03, August 29, 2003, Overrode veto of Resolution CJY-42-03.

CJY-42-03, July 25, 2003, Amended section generally.

CN-86-85, November 5, 1985.

#### **§ 4083. Jurisdiction; authority**

A. The Kayenta Township shall be governed by the Kayenta Township Commission (KTC).

B. The KTC shall have jurisdiction over all that area authorized and designated by the Navajo Nation Council in November 1985 (Resolution CN-86-85), and the official survey plat filed with Navajo County and submitted to the Bureau of Indian Affairs; said area shall be subject to amendment pursuant to Kayenta Township ordinance and concurrence by the Kayenta Chapter.

C. The authority of the KTC shall prevail over all other authority contingent upon its consistency and compliance with all generally applicable laws and regulations of the federal government and the Navajo Nation.

#### **History**

CAU-47-03, August 29, 2003, Overrode veto of Resolution CJY-42-03.

CJY-42-03, July 25, 2003, Amended section generally.

CN-86-85, November 5, 1985.

#### **§ 4084. Duties, authorities and responsibilities of Kayenta Township Commission**

The KTC shall have the duty, authority, and responsibility to perform all functions necessary for local self government, consistent with all generally applicable laws and regulations of the federal government and the Navajo Nation.

#### **History**

CAU-47-03, August 29, 2003, Overrode veto of Resolution CJY-42-03.

CJY-42-03, July 25, 2003, Amended Section generally.

CN-86-85, November 5, 1985.

#### **§ 4085. Code of Ethics**

Officers and members of the KTC shall maintain a high standard of conduct in all dealings. This standard of conduct shall include but is not limited to

conducting all KTC business openly without taint of impropriety, serving the KTC, Kayenta Chapter and the Navajo Nation to the very best of their ability in full compliance with the Navajo Nation Ethics in Government Law.

#### **History**

CAU-47-03, August 29, 2003, Overrode veto of Resolution CJY-42-03.

CJY-42-03, July 25, 2003, Amended section generally.

CN-86-85, November 5, 1985.

#### **§ 4086. Amendments and revisions**

This Subchapter may from time to time be amended as necessary and appropriate by a two-thirds majority of the full Navajo Nation Council with recommendations from the KTC and the Kayenta Chapter.

#### **History**

CAU-47-03, August 29, 2003, Overrode veto of Resolution CJY-42-03.

CJY-42-03, July 25, 2003, Amended section to create Kayenta Township as home rule municipality.

CN-86-85, November 5, 1985.

### **Title 3**

#### **Agriculture and Livestock**

##### **United States Code**

Loans of livestock by United States to Indians, cash settlements, disposition of moneys received in settlement of, 25 U.S.C. §§ 442, 443.

Relief in stricken agricultural areas, expenditures not considered in offsetting gratuities in suits of Tribes against United States, 25 U.S.C. § 475a.

#### **Chapter 1. Agricultural Leases, Assignments, and Permits**

##### **Subchapter 1. Leases**

##### **§ 1. Authority to negotiate and grant**

A. The Resources Committee of the Navajo Nation Council is authorized and empowered, with the approval of the General Superintendent, to negotiate and grant leases of economic unit sized tracts of Navajo Nation land to qualified members of the Navajo Nation for agricultural purposes.

B. The President of the Navajo Nation, with the approval of the General Superintendent, is authorized to enter into lease agreements upon approval of