

LEGISLATIVE SUMMARY SHEET

Tracking No. 0003-19

DATE: January 16, 2019

TITLE OF RESOLUTION: AN ACTION RELATING TO NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL; RESCINDING CO-60-17

PURPOSE: If approved, this resolution will rescind CO-60-17 titled *Amending "The Navajo Preference in Employment Act" at 15 N.N.C. §§ 603, 604(B)(8) to Provide For The Addition of Program Managers of The Executive Branch as a Class of Employees Exempt From the Just Cause Provisions of The Act.*

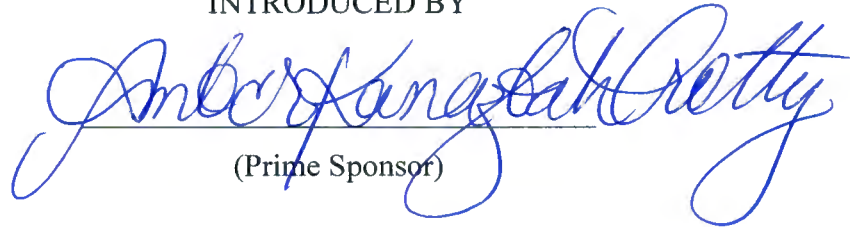
This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

5-DAY BILL HOLD PERIOD: SNOTAH
Website Posting Time/Date: 5:24pm 1-18-19
Posting End Date: 1-23-19
Eligible for Action: 1-24-19

Naabik'iyáti' Committee
Thence
Navajo Nation Council

1 PROPOSED NAVAJO NATION COUNCIL RESOLUTION
2 24th NAVAJO NATION COUNCIL – First Year, 2019

3 INTRODUCED BY

4 
5
6 (Prime Sponsor)

7
8 TRACKING NO. 0003-19

9
10 AN ACTION

11 RELATING TO NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION
12 COUNCIL; RESCINDING CO-60-17

13
14 BE IT ENACTED:

15 **Section One. Authority**

- 16 A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C
17 §102 (A).
18 B. Pursuant to 2 N.N.C. §164 (A)(9), a proposed resolution that requires final action by
19 the Navajo Nation Council shall be assigned to the Naabik'iyáti' Committee before it
20 is heard by the Navajo Nation Council.

21
22 **Section Two. Findings**

- 23 A. In October 2017, the Navajo Nation Council passed Resolution CO-60-17 titled
24 *Amending "The Navajo Preference in Employment Act" at 15 N.N.C. §§ 603,*
25 *604(B)(8) to Provide For The Addition of Program Managers of The Executive*
26 *Branch as a Class of Employees Exempt From the Just Cause Provisions of The Act.*
27 *See CO-60-17 attached hereto as Exhibit A.*
28 B. Resolution CO-60-17 amended the Navajo Preference in Employment Act ("NPEA"),
29 15 N.N.C. §§ 603 and 604(B)(8) to include the addition of Program Managers as
30 exempt from the just cause provision of the NPEA.

- 1 C. Resolution CO-60-17 was enacted by statute on November 6, 2017, after the Navajo
2 Nation President did not sign the resolution within the statutory 10 day period and the
3 effective date of CO-60-17 was one year after the Resolution became effective but
4 also became effective for all program manager positions as those positions became
5 vacant due to retirement, resignation, termination, promotion, layoff or transfer of the
6 persons occupying those positions.
- 7 D. The Navajo Department of Personnel Management has notified all programs,
8 departments and the Executive and Legislative Branches to revise the Personnel
9 Action Forms for all program managers defined by CO-60-17.
- 10 E. Resolution CO-60-17 has affected a large number of Navajo Nation employees and is
11 ripe for abuse by supervisors who are now free from the just cause requirement of the
12 NPEA and may freely terminate program managers potentially leading to a slow-
13 down in program services to Navajo citizens.

14
15 **Section Three. Rescinding CO-60-17**

- 16 A. The Navajo Nation hereby rescinds CO-60-17 titled *Amending "The Navajo*
17 *Preference in Employment Act" at 15 N.N.C. §§ 603, 604(B)(8) to Provide For The*
18 *Addition of Program Managers of The Executive Branch as a Class of Employees*
19 *Exempt From the Just Cause Provisions of The Act."*
- 20 B. As a result of this rescission, all program managers shall be regular status employees
21 of the Nation with all rights accruing to such employees under the Navajo Preference
22 in Employment Act and the Navajo Nation Personnel Policies Manual. The
23 Department of Personnel Management shall immediately take all steps necessary to
24 implement this legislation, including issuing new Personnel Action Forms for all
25 Program Managers reflecting that status.

26
27 **Section Four. Effective Date**

28 The provisions of this Act shall become effective in accord with 2 N.N.C. § 221(B).
29
30



CO-60-17

RESOLUTION OF THE
NAVAJO NATION COUNCIL

23RD NAVAJO NATION COUNCIL -- Third Year, 2017

AN ACTION

RELATING TO LAW AND ORDER, HEALTH, EDUCATION AND HUMAN SERVICES, NAABIK'ÍYÁTI' COMMITTEE AND THE NAVAJO NATION COUNCIL; AMENDING "THE NAVAJO PREFERENCE IN EMPLOYMENT ACT" AT 15 N.N.C. §§ 603, 604 (B) (8) TO PROVIDE FOR THE ADDITION OF PROGRAM MANAGERS OF THE EXECUTIVE BRANCH AS A CLASS OF EMPLOYEES EXEMPT FROM THE JUST CAUSE PROVISIONS OF THE ACT

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Law and Order Committee of the Navajo Nation Council, pursuant to 2 N.N.C. 601(B)(14), reviews and makes recommendations to the Navajo Nation Council on proposed amendments to and enactments in the Navajo Nation Code.
- B. The Health, Education and Human Services Committee of the Navajo Nation Council, among other duties and responsibilities, generally oversees the Division of Human Resources within the Navajo Nation. 2 N.N.C. §400(C) (1).
- C. The Naabik'iyáti' Committee is a standing committee of the Navajo Nation Council. Pursuant to 2 N.N.C. § 164(A) (9), the committee reviews proposed legislation which requires final action by the Navajo Nation Council.
- D. The Navajo Nation Council enacts laws and sets policy for the Navajo Nation. 2 N.N.C. § 102.

SECTION TWO. FINDINGS

- A. Program managers of the Executive Branch of the Navajo Nation perform a crucial role in the implementation, efficiency and effectiveness of the programs of the Navajo Nation in a manner that insures a positive benefit to the Navajo People.
- B. The Navajo Nation Personnel Policies Manual describes the supervisory responsibilities of program managers as follows: "Supervisors are responsible for utilizing and applying the personnel policies consistently in dealing with human

resources issues. They are encouraged to seek advice from Department of Personnel Management and Department of Justice on the interpretation of the Personnel Policies Manual and in addressing employment issues. Supervisors are expected to provide leadership in implementing the policies and to set positive examples for employees. See Navajo Nation Personnel Policies Manual, Section I, A., Amended March 25, 2015.

- C. In order to hold program managers of each division within the Navajo Nation government accountable for the performance of their respective programs, there is a current need to make all program managers within the Executive Branch of the Navajo Nation professional at-will employees.
- D. The definition of at-will employee is when, "a supervisor can discharge an employee under this employment status for any reason at all or no reason at all, with or without notice; and the employee can leave (resign) at any time for any or no reason at all, with or without notice." See Navajo Nation Personnel Policies Manual, Section XXI, Amended April 12, 2016.
- E. The definition of "program manager" is "...anyone who has the authority to hire, terminate, discipline, or otherwise initiate personnel action. It is also intended to include all supervisors at higher levels, i.e. Department Managers, division directors." See Navajo Nation Personnel Policies Manual, Section XXI, Amended April 12, 2016.
- F. It is in the best interest of the Navajo Nation in order to improve overall program efficiency, effectiveness and accountability that all program managers serve at the pleasure of Navajo Nation Executive Branch Division Directors.
- G. It is in the best interest of the Navajo Nation to amend the Navajo Preference in Employment Act, at 15 N.N.C. §§ 603, 604 (B) (8), to provide that all program managers of the Navajo Nation Executive Branch be exempt from the just cause provisions of the Navajo Preference in Employment Act.

SECTION THREE. AMENDING TITLE 15

The Navajo Nation amends the Navajo Preference in Employment Act, at 15 N.N.C. §§ 603, 604 (B) (8) as follows:

THE NAVAJO NATION CODE ANNOTATED
TITLE 15. LABOR
CHAPTER 7. NAVAJO PREFERENCE IN EMPLOYMENT ACT

§ 603. Definitions

- A. The term "Commission" shall mean the Navajo Nation Labor Commission.
- B. The term "employment" shall include, but is not limited to, the recruitment, hiring, promotion, transfer, training, upgrading, reduction-in-force, retention, and recall of employees.
- C. The term "employer" shall include all persons, firms, associations, corporations, and the Navajo Nation and all of its agencies and instrumentalities, who engage the services of any person for compensation, whether as employee, agent, or servant.
- D. The term "Navajo" means any enrolled member of the Navajo Nation.
- E. The term "ONLR" means the Office of Navajo Labor Relations.
- F. The term "probable cause" shall mean a reasonable ground for belief in the existence of facts warranting the proceedings complained of.
- G. The term "territorial jurisdiction" means the territorial jurisdiction of the Navajo Nation as defined in 7 N.N.C. § 254.
- H. The term "counsel" or "legal counsel" shall mean: (a) a person who is an active member in good standing of the Navajo Nation Bar Association and duly authorized to practice law in the courts of the Navajo Nation; and (b) for the sole purpose of co-counseling in association with a person described in Clause (a), an attorney duly authorized, currently licensed and in good standing to practice law in any state of the United States who has, pursuant to written request demonstrating the foregoing qualifications and good cause, obtained written approval of the Commission to appear and participate as co-counsel in a particular Commission proceeding.

- I. The term "necessary qualifications" shall mean those job-related qualifications which are essential to the performance of the basic responsibilities designated for each employment position including any essential qualifications concerning education, training and job-related experience, but excluding any qualifications relating to ability or aptitude to perform responsibilities in other employment positions. Demonstrated ability to perform essential and basic responsibilities shall be deemed satisfaction of necessary qualifications.
- J. The term "qualifications" shall include the ability to speak and/or understand the Navajo language and familiarity with Navajo culture, customs and traditions.
- K. The term "person" shall include individuals; labor organizations; tribal, federal, state and local governments, their agencies, subdivisions, instrumentalities and enterprises; and private and public, profit and non-profit, entities of all kinds having recognized legal capacity or authority to act, whether organized as corporations, partnerships, associations, committees, or in any other form.
- L. The term "employee" means an individual employed by an employer.
- M. The term "employment agency" means a person regularly undertaking, with or without compensation, to procure employees for an employer or to obtain for employees opportunities to work for an employer.
- N. The term "labor organization" or "union" means an organization in which employees participate or by which employees are represented and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours or other terms and conditions of employment, including a national or international labor organization and any subordinate conference, general committee, joint or system board, or joint council.
- O. The term "petitioner" means a person who files a complaint seeking to initiate a Commission proceeding under the Act.
- P. The term "respondent" means the person against whom a complaint is filed by a petitioner.
- Q. The term "Act" means the Navajo Preference in Employment Act.

R. The term "program manager" shall be as defined in The Navajo Nation Personnel Policies Manual.

§ 604. Navajo employment preference

* * * *

B. Specific requirements for Navajo preference:

1. All employers shall include and specify a Navajo employment preference policy statement in all job announcements and advertisements and employer policies covered by this Act.
2. All employers shall post in a conspicuous place on its premises for its employees and applicants a Navajo preference policy notice prepared by ONLR.
3. Any seniority system of an employer shall be subject to this Act and all other labor laws of the Navajo Nation. Such a seniority system shall not operate to defeat nor prevent the application of the Act, provided, however, that nothing in this Act shall be interpreted as invalidating an otherwise lawful and bona fide seniority system which is used as a selection or retention criterion with respect to any employment opportunity where the pool of applicants or candidates is exclusively composed of Navajos or of non-Navajos.
4. The Navajo Nation when contracting with the federal or state governments or one of its entities shall include provisions for Navajo preference in all phases of employment as provided herein. When contracting with any federal agency, the term Indian preference may be substituted for Navajo preference for federal purposes, provided that any such voluntary substitution shall not be construed as an implicit or express waiver of any provision of the Act nor a concession by the Navajo Nation that this Act is not fully applicable to the federal contract as a matter of law.
5. All employers shall utilize Navajo Nation employment sources and job services for employee recruitment and referrals, provided, however, that employers do not have the foregoing obligations in the event a Navajo is

selected for the employment opportunity who is a current employee of the employer.

6. All employers shall advertise and announce all job vacancies in at least one newspaper and radio station serving the Navajo Nation, provided, however, that employers do not have the foregoing obligations in the event a Navajo is selected for the employment opportunity who is a current employee of the employer.
7. All employers shall use non-discriminatory job qualifications and selection criteria in employment.
8. All employers shall not penalize, discipline, discharge nor take any adverse action against any Navajo employee without just cause. A written notification to the employee citing such cause for any of the above actions is required in all cases. Provided, that this Subsection shall not apply to Division Directors, program managers of the Executive Branch and Legislative Branch or to other employees and officials of the Navajo Nation who serve, pursuant to a specific provision of the Navajo Nation Code, at the pleasure of the Navajo Nation Council, the standing committees of the Navajo Nation Council, the President of the Navajo Nation, the Speaker of the Navajo Nation Council, the Chief Justice of the Navajo Nation, or those persons employed pursuant to 2 N.N.C. §§ 281(C) and 1009.
9. All employers shall maintain a safe and clean working environment and provide employment conditions which are free of prejudice, intimidation and harassment.
10. Training shall be an integral part of the specific affirmative action plans or activities for Navajo preference in employment.
11. An employer-sponsored cross-cultural program shall be an essential part of the affirmative action plans required under the Act. Such program shall primarily focus on the education of non-Navajo employees, including management and supervisory personnel, regarding the cultural and religious traditions or beliefs of Navajos and their relationship to the development of employment policies which accommodate such traditions and beliefs. The cross-cultural program shall be developed and implemented through a process which involves the

substantial and continuing participation of an employer's Navajo employees, or representative Navajo employees.

12. No fringe benefit plan addressing medical or other benefits, sick leave program or any other personnel policy of an employer, including policies jointly maintained by an employer and associated labor organization, shall discriminate against Navajos in terms or coverage as a result of Navajo cultural or religious traditions or beliefs. To the maximum extent feasible, all of the foregoing policies shall accommodate and recognize in coverage such Navajo traditions and beliefs.

* * * *

SECTION FOUR. CODIFICATION

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

SECTION FIVE. SAVING CLAUSE

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

SECTION SIX. EFFECTIVE DATE

The provisions of this Act shall become effective in accord with 2 N.N.C. § 221(B) and shall be applicable to all program manager positions as they become vacant because of retirement, resignation, termination, promotion, layoff and transfer other than to acting status as determined by the Department of Personnel Management or a year from the date upon which it receives the signature of the President of the Navajo Nation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 08 in favor and 07 opposed, this 17TH day of October 2017.



LoRenzo C. Bates, Speaker
Navajo Nation Council

Oct. 27, 2017

Date

Motion: Honorable Lee Jack, Sr.

Second: Honorable Otto Tso

Speaker Bates not voting

ACTION BY THE NAVAJO NATION PRESIDENT:

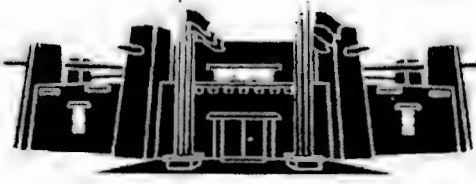
1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (c)(10), on this _____ day of _____ 2017.

Russell Begaye, President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (c)(11), on this _____ day of _____ 2017 for reason(s) _____ expressed in the attached letter to the Speaker

Russell Begaye, President
Navajo Nation

Office of Legislative Counsel
Telephone: (928) 871-7166
Fax # (928) 871-7576




Honorable LoRenzo Bates
Speaker
23rd Navajo Nation Council

October 27, 2017

MEMORANDUM

TO : Tom Platero, Executive Director
Office of Legislative Services

FROM : 
Levon B. Henry, Chief Legislative Counsel
Office of Legislative Counsel

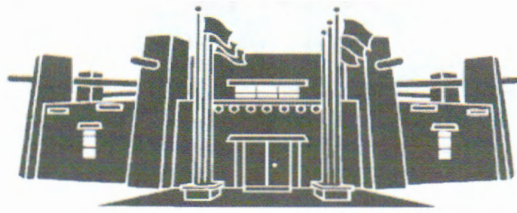
RE : CO-60-17 – Enacted by Statute

On October 17, 2017 the Navajo Nation Council considered and passed Resolution CO-60-17, *Amending "The Navajo Preference in Employment Act" at 15 N.N.C. §§ 603, 604(B)(8) to Provide For The Addition of Program Managers of The Executive Branch as a Class of Employees Exempt From the Just Cause Provisions of The Act.* The Speaker of the Navajo Nation Council certified the resolution on October 27, 2017. On that same day, the Office of the President and Vice-President received the resolution for the President's consideration. 10 days later on November 6, 2017, the Office of the President and Vice-President returned the resolution to the Office of Legislative Services. Neither the Navajo Nation President nor the Vice-President signed the resolution.

Pursuant to 2 N.N.C. § 221(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..." Resolution CO-60-17 specifically refers to 2 N.N.C. § 221(B). The President's powers include signing "legislation passed by the Navajo Nation Council into Navajo law within ten calendar days after the certification of the legislation by the Speaker..." 2 N.N.C. 1005(C)(10). "The President's authority to sign into law or veto legislation shall be deemed waived if not exercised within ten calendar days after certification of the legislation by the Speaker...and the legislation shall be deemed enacted and become effective pursuant to 2 N.N.C. § 221." 2 N.N.C. § 1005(C)(12).

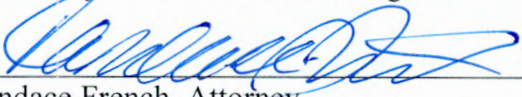
The Speaker certified Resolution CO-60-17 on October 27 and the President's office received the resolution on October 27. The 10-day period extended to November 6, 2017. The President did not sign the resolution within the 10-day period. Therefore, by law Resolution CO-60-17 is deemed enacted and considered Navajo Nation law.

cc: Hon. LoRenzo Bates, Speaker, 23rd Navajo Nation Council
Council Delegates, 23rd Navajo Nation Council
Pete Atcity, Chief of Staff, Legislative Branch



MEMORANDUM

TO: Honorable Amber K. Crotty
24th Navajo Nation Council Delegate

FROM: 
Candace French, Attorney
Office of Legislative Counsel

DATE: January 16, 2019

RE: AN ACTION RELATING TO NAABIK'ÍYÁTI' COMMITTEE AND THE
NAVAJO NATION COUNCIL; RESCINDING CO-60-17

Per your request, attached is the above-reference proposed resolution and associated legislative summary sheet. Based on existing law, the resolution drafted is legally sufficient. However, as with all legislation, the proposed resolution is subject to review by the courts in the event of a challenge.

The Office of Legislative Counsel recommends the appropriate standing committee(s) reviews based on the standing committees powers outlined in 2 N.N.C. §§ 301, 401, 501, 601, and 701. Nevertheless, “the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration. 2 N.N.C. § 164(A)(5).

Please review the proposed resolution to ensure it is drafted to your satisfaction. If you approve, please sign as “Primary Sponsor” and submit it to the Office of Legislative Services where the proposed resolution will be given a tracking number and referred to the Office of the Speaker. If the proposed legislation is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like to make to the proposed resolution.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: _0003-19__

SPONSOR: Amber Kanazbah Crotty

TITLE: An Action To NAABIK'IYATI' Committee And The Navajo Nation Council; Rescinding CO-60-17

Date posted: January 18, 2019 at 5:24 PM

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

**Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586**

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 *et. seq.*

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0003-19

SPONSOR: Honorable Amber Kanazbah Crotty

TITLE: An Action Relating to Naabik'iyati' and the Navajo Nation Council; Rescinding CO-60-17

Posted: January 18, 2019 at 5:24PM

5 DAY Comment Period Ended: January 23, 2019

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inconclusive Comment	<i>None</i>



Legislative Secretary II
Office of Legislative Services

1/24/2019 8:04am

Date/Time

**THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY**

LEGISLATION NO.: 0003-19

SPONSOR: Honorable Amber Kanazbah Crotty

TITLE: An Action Relating to Naabik'iyati' and the Navajo Nation Council; Rescinding CO-60-17

Posted: January 18, 2019 at 5:24PM

5 DAY Comment Period Ended: January 23, 2019

Digital Comments received:

Comments Supporting	<i>None</i>
Comments Opposing	<i>None</i>
Inconclusive Comment (3)	<ol style="list-style-type: none"> 1. Ms. L Barber, Office Assistant; Child Support Services. Recommendation on amendments to legislation. 2. Laverne Shierholz, CO-60-17 amendment proposal. 3. Sherry Anderson, Case Management Specialist; Department of Child Support Services.



 Legislative Secretary II
 Office of Legislative Services

1/29/2019 9:11am

 Date/Time

Background Information:

Resolution rescind CO-60-17 titled Amending “The Navajo Preference in Employment Act” at 15 N.N.C §§ 603, 604 (B) (8) to Provide for the Addition of Program Managers of the Executive Branch as Class of Employees Exempt from the Just Cause Provision of The Act.

Section Two – Findings:

B. The Navajo Personnel Policies Manual describes the Supervisor responsibilities of program managers as follows: “Supervisors are responsible for utilizing and applying the personnel polices consistently in dealing with human resources issues. They are encouraged to seek advice from DPM and DOJ on the interpretation of the Personnel Policies Manual and in addressing employment issues. Supervisors are expected to provide leadership in implementing the policies and to set positive examples for employees. Section I, A.

D. The definition of at-will employee is when, “a supervisor can discharge an employee under this employment status for any reason at all or no reason at all, with or without notice; and the employee can leave (resign) at any time for any or no reason at all, with or without notice.” Section XXI.

E. the definition of “Program Manager” is “anyone who has the authority to hire, terminate, discipline, or otherwise initiate personnel action. It is also intended to include all supervisors at higher levels, i.e. Department Mangers, Division Directors.” Section XXI

Recommendation One:

Define – Program Managers & Agency Level Supervisors

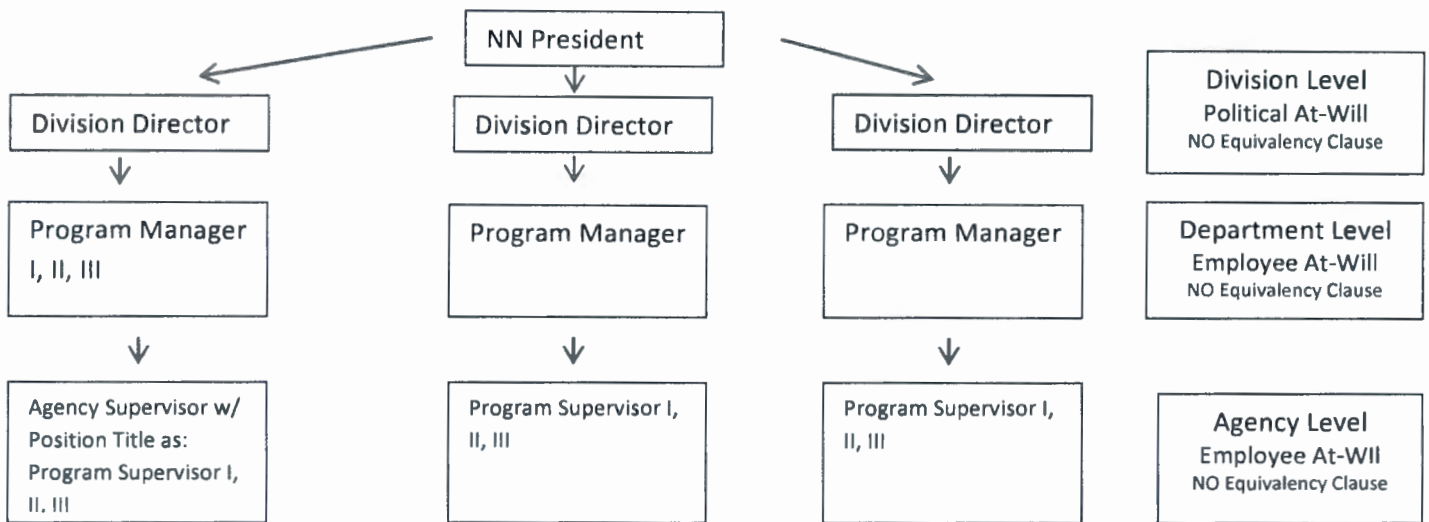
Navajo Nation Personnel Policies: It is defined that Program Manager is someone that has the authority to hire, terminate, discipline or otherwise initiate personnel action. Program Managers are the only position that has the authority to hire, terminate or discipline. Supervisors below the position of Program Mangers such as Agency Supervisors NOT all have the authority to hire, terminate or discipline.

I believe this is the main reason; the lower level supervisors are against the legislation CO-60-17 (PAW). Unfortunately, Program Manager Positions were at difference levels. Agency level supervisors are considered Program Manager when in fact they are not. Program Managers are the position below the Division Director. So, when legislation became effective, Agency level supervisors are considered in this legislation (PAW).

The Legislation specifically indicates, Program Managers that have the authority to hire, terminate and discipline. Agency level supervisors just recommend who they will hire, if discipline and terminate actions need to be taken, they consult with DOJ and the Program Manager. It is the Program Manager that signs all the needed documents to hire, terminate and discipline, not the Agency level supervisors.

The Legislation should have indicated Supervisors that have the authority to hire, terminate and discipline instead of “Program Managers” title. This is where the push back is from the lower level supervisors. They are looking at the “Position Title” not the definition where it indicates its authority level.

Navajo Nation Government, Human Resources Department needs to address the consistency of the position titles across the board. Example below:



The Department of Human Resources and President/Council can use the Reorganizational program to do “spill and fill” if they want to refill the Supervisor positions with new people that qualify. The Key here is the “Equivalency Clause’ is eliminated if you want to get the best candidates for the supervisory positions.

Navajo Nation Organizational chart has different supervisory titles. It should be consistent across the chart. But, introducing a new organizational chart will allow the current employee that is affected to re-apply for the position. If they do not qualify, then a new employee is selected that does qualify. The key is No Equivalency clause for the supervisory positions.

Currently, you have people in Supervisory positions that have no educational background or were grandfathered in, supervising employees that have twice the educational credentials. These types of supervisors have no management skills and destroy the motivation of their subordinates and leave their program with no improvement or progression of improvement.

Recommendation Two:

D. The definition of **At-Will employee** is when, “a supervisor can discharge an employee under this employment status for any reason at all or no reason at all, with or without notice; and the employee can leave (resign) at any time for any or no reason at all, with or without notice.” Section XXI.

E. the definition of “**Program Manager**” is “anyone who has the authority to hire, terminate, discipline, or otherwise initiate personnel action. It is also intended to include all supervisors at higher levels, ie. Department Mangers, Division Directors.” Section XXI

Navajo Nation Personnel Policy: At-Will: (page 18)

There are two categories of at-will employees:

- a. **Professional At-Will** – employees are those who serve at the *pleasure* of the Attorney General, Chief Prosecutor, Executive Director of the Navajo Nation Washington Office, The Public Defender Commission, or other Official or employee as provided by Navajo Nation law (see Definitions, Section XXI for reference to the Navajo Nation Code). *This designation does not include any employee who receives deferred compensation.*
- b. **Political At-Will** - employees are those who serve at the *pleasure* of the President, the Navajo Nation Council, or the Speaker of the Navajo Nation Council. *Political At-Will employees receive deferred compensation.*

ADDITION:

- c. **Employee At-Will** - employees are those who are employed by the Navajo Nation Government in the supervisor capacity and have the authority to hire, terminate and discipline.

Basically, it will mean that **ALL Supervisory positions** will be At-Will positions. All supervisors will have the authority to hire, terminate and discipline.

Recommendation Three:

If the problem of the criteria which is “*authority to hire, terminate and discipline*” is included in the resolution, then there could be the simple creation of an Human Resources (HR) panels that can address hire, terminate and discipline.

- A. Interview Panel group (Hire) – a group of people that conduct an unbiased interview to hire individuals that are qualified for the position. Members of the panel will include Supervisor from the immediate office, DPM personnel, immediate Department personnel and one other current employee from the hiring office.

This will also eliminate the “*it is not what you know but who you know*” hiring practice complaint from unsuccessful candidates.

- B. Disciplinary Panel group (Disciplinary) – a group of people that will review the investigation and come to a consensus to administer a disciplinary action needed. Members of the panel will include, Current Supervisor, DPM representative, and NOLR. The Program Manager will administer disciplinary action.
- C. Termination Panel group (Termination) – a group of people that will review the investigation and come to a consensus to terminate the employee. Members of the panel will include, Current Supervisor, DMP representative, DOJ representative. The Program Manager will administer disciplinary action.

This will elevate the need for Agency Supervisors (Program Supervisors at Agency levels) to be Employee At-Will/Political At-Will employees.

Recommendation Four:

If the Navajo Nation truly believe in the best interest of the government to improve the overall program efficiency, effectiveness and accountability, do not include the equivalency clause in the Program Managers or any Supervisory positions. Often, you will see recycled individuals that do not have the educational credentials but yet occupies the highest level of supervisory position with poor management skills.

Current Navajo Nation Personnel Policy - Equivalency Clause: (page 23)

To establish job descriptions/classifications, programs must:

1. Establish minimum qualifications for a position, whether a certain number of years of experience, a specific education requirement, or both of qualification assessment; and
2. Establish preferred qualifications for a position, whether a certain number of years of experience, a specific educational requirement, or both in seeking the best qualified candidate.

Recommendation is re-write the Qualifications for Program Managers and Supervisors ONLY.

1. Establish best qualifications for a position, a certain number of years of experience, and a specific education requirement of qualification assessment; and
2. Establish preferred qualifications for a position, whether a certain number of years of experience, and a specific educational requirement in seeking the best qualified candidate.
3. No Equivalency Clause.

Recommendation Five:

There was a memorandum that was issued by Reycita Toddy, dated December 26, 2017. I sincerely believe when this memorandum was issued, Ms. Toddy should have met with all the positions that would have been effected. Instead, only the Division Directors and next level supervisors were involved in the discussion or the information was not disseminated to the next lower level supervisors. The communication breakdown from the Division Directors and Program Managers should take responsibility for causing the situation. As an employee under the Division of Human Resources, Ms. Toddy should have considered the best interest of the entire Navajo Nation employee. As an HR employee it is critical that you have a continuous stethoscope on the heart of the Navajo Nation government employees. They should be advocate for employees and create dynamic and diverse workplaces with engaged employees/customers. Instead our HR department has just become paper pushers. HR department needs to conduct 360° evaluations on ALL the supervisor positions. This can be outsource by HR. The final report then can be shared with ALL the supervisors (Agency supervisor, Program Supervisors, Division Supervisors, NN President). A determination can be made to release the employee if they are an At-Will employee.

Well, I have more to add but, I think this is about the right place to stop.

Thank you,

Ms. L Barber, Office Assistant
Child Support Services
Shiprock, New Mexico 87420
(505) 368-1006
Loubarber@css.navajo-nsn.gov

January 22, 2019

Executive Director
Office Legislative Services
PO Box 3390
Window Rock, AZ 86515

Re: CO-60-17 amendment proposal

Good morning Executive Director,

I believe that if a program manager is not succeeding, then that program manager should be removed after clearly demonstrating they are incapable of running a Navajo Nation program successfully. Just because you are hired into a tribal government management position should not mean it is a permanent position or that a manager should just do the bare minimum. It is also essential that managers, upon hire, understand the expectations expected from them in a higher income position. After hire, there seems to be a lack of communication thereby managers lose perspective of goals and eventually running programs into the ground

It is necessary for Navajo Nation government to hire competent managers. Ms. Crotty ran for council delegate to work for **all Navajos** and should endeavor as such. Keep CO-60-17 as-is on Navajo Nation.

Thank you,

A handwritten signature in blue ink, appearing to read "L. Schierholz".

Laverne Schierholz
PO Box 235
St Michaels, AZ 86511

lpear 75357@hotmail.com

PAW

Sherry Anderson <sanderson@css.navajo-nsn.gov>

Thu 1/24/2019 8:51 AM

To: comments <comments@navajo-nsn.gov>;

Good morning,

I am in full support of rescinding the legislative regarding Professional At Will (PAW); I feel it is misinterpreted by our administration, back in July we were informed of PAW and as Supervisors over agency office we were told by our Superior that we fall under one of the criteria. We disagreed, we read and understood that it only affects the Program Managers and not the agency level personnel. Our administration went beyond their capability to reclassify our position so we fit the criteria and subject us to a PCQ in that effort, demanding we sign the PCQ and had to reapply for our position in the process. It was not a choice we were demanded to comply and cooperate with the creation of the PCQ. Our superior presently has the same title as each one of us, it was a blessing that we all qualified for the new classified position however that didn't help our administrator who still has the title of Program Supervisor I.

With the PCQ she was to attach a reorganization structure she did without our knowledge and it was never passed by the council or whoever was supposed to approve any changes to a program. Everything was done in a manner of deceit to ensure we all were under PAW regardless of our job title and description, we don't have job descriptions for each position under this department. I strongly feel we don't fall under PAW but we were made to fit by changing our titles. This effort was made possible by our current PS1 Ms. Platero and Ms. LaVonne Tsoie; somewhere along the way the responsibility of disciplining our staff fell on us, financial responsibilities and personnel process, these responsibilities were always with the central administration in the prior years but once Ms. Platero started directing this department a lot of the weight has trailed down to the agency offices.

I feel PAW should only apply to the Central Program Managers, Directors etc...and not subject it to the agency level staff. We know this was intentionally done by our administrator because this gave her the upper hand to use this as a retaliation or a form of dismissal; as it is we are in the midst of micro management that needs someone to fully look into the matter and soon. Please rescind the PAW or apply it to those with such authority as described in the content and not extend it to the "grass root" level. We are always forgotten about, the demands of our superior become overwhelming at times causing due hardship. Thank you if I can be of further assistance or need more information please do not hesitate to call on me. Recommendation: that there be some form of assessment or investigation be made for all those who fall under PAW and make accountability on lack of production or performance.

**Sherry Anderson, Case Management Specialist
Navajo Nation Department of Child Support Services
Tuba City Office
Tele: (928) 283-3416
Fax: (928) 283-3423**

"A time to rejoice, the first of everything, a new year and I'm running the race" me.

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**24th NAVAJO NATION COUNCIL
NAABIK'ÍYÁTI' COMMITTEE REPORT
First Year 2019**

The **NAABIK'ÍYÁTI' COMMITTEE** to whom has been assigned:

NAVAJO LEGISLATIVE BILL #0003-19

An Action Relating to Naabik'iyáti' Committee and the Navajo Nation Council; Rescinding CO-60-17

Sponsored by: Honorable Amber Kanazbah Crotty

Has had it under consideration and reports the same that the legislation **WAS PASSED AND REFERRED TO THE NAVAJO NATION COUNCIL**

Respectfully Submitted,


*Honorable Seth Damon, Chairman
NAABIK'ÍYÁTI' COMMITTEE*

24 JANUARY 2019

MAIN MOTION

Motioned by: Honorable Edmund Yazzie

Seconded by: Honorable Vince James

Vote: 17 in Favor, 00 Opposed (Chairman Damon not voting)

NAVAJO NATION

RCS# 11

Naa'bik'iyati Committee

1/24/2019
11:58:02 PM

Amd# to Amd#

Legislation 0003-19: Rescinding

PASSED

MOT Yazzie

CO-60-17

SEC James, V

Yea : 17

Nay : 0

Excused : 0

Not Voting : 7

Yea : 17

Begay, E
Begay, K
Begay, P
Brown
Charles-Newton

Crotty
Freeland, M
Henio, J
James, V

Nez, R
Smith
Stewart, W
Tso, C

Tso, D
Tso, E
Yazzie
Yellowhair

Nay : 0

Excused : 0

Not Voting : 7

BeGaye, N
Damon

Daniels
Halona, P

Tso, O
Walker, T

Wauneka, E