

LEGISLATIVE SUMMARY SHEET

Tracking No. 0262-18

DATE: June 27, 2018

TITLE OF RESOLUTION: AN ACTION RELATING TO LAW AND ORDER;
AMENDING ETHICS ADMINISTRATIVE HEARING RULES FOR PURPOSES OF
CLARIFICATION; AUTHORIZING INVESTIGATORY SUBPOENAS

PURPOSE: This bill will amend the Ethics Administrative Hearing Rules for purposes of clarification. Rules will state the authority on investigatory subpoenas.

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: 4:41 pm 7-24-2018
Posting End Date: 7-29-2018
Eligible for Action: 7-30-2018

PROPOSED STANDING COMMITTEE RESOLUTION
23rd NAVAJO NATION COUNCIL -- Fourth Year, 2018

INTRODUCED BY



(Prime Sponsor)

TRACKING NO. 0262-18

AN ACTION
RELATING TO LAW AND ORDER; AMENDING ETHICS ADMINISTRATIVE
HEARING RULES FOR PURPOSES OF CLARIFICATION; AUTHORIZING
INVESTIGATORY SUBPOENAS

BE IT ENACTED:

Section One. Authority

1. The Navajo Nation Office of Hearings and Appeals is an administrative hearing body. 2 N.N.C. § 1053 *et seq.*
2. Among its authority to conduct various administrative hearings, the Office of Hearings and Appeals has the authority to convene hearings concerning administrative complaints filed by the Navajo Nation Ethics and Rules Office. CJA-03-13, section 5(E); 2 N.N.C. §§ 3766, 3770 and 3774. Navajo Nation law provides, "[i]n addition to all powers and authority to carry out the purposes set forth [in its plan of operation], the Office of Hearings and Appeals shall have the following specific powers and authority to ... [e]xercise all powers and authority necessary or reasonable to carry out the purposes of applicable Navajo laws and regulations." 2 N.N.C. §§ 1054 and 1054(C). Consistent with this necessary and proper clause, the Office of Hearings and Appeals has the authority to "[i]ssue subpoenas,

1 procedural orders, and other orders necessary to the hearing procedures ..." 2 N.N.C. §
2 1054(D)(2). It may also "cause depositions to be taken." 2 N.N.C. § 1054(D)(4).

3 3. The Law and Order Committee is a standing committee of the Navajo Nation Council
4 2 N.N.C. § 600. Among its various statutory duties and responsibilities is the authority of
5 overseeing "all administrative legal tribunals including ... the Office of Hearings and
6 Appeals." 2 N.N.C. § 601(C)(1). The committee also has oversight authority over the Ethics
7 and Rules Office. *Id.*

8 9 **Section Two. Findings**

10 1. The Administrative Hearing Rules for administrative ethics cases were last amended
11 July 28, 2016 though resolution LOCJY-06-16.

12 2. Under Navajo Nation law, the authority of the Office of Hearings and Appeals to issue
13 subpoenas is recognized. However, the rules must be clarified as to subpoenas requested and
14 issued prior to the filing of formal complaints.

15 3. Navajo Nation law does not limit subpoenas to Navajo Nation entities. Navajo Nation
16 law also does not limit subpoenas to private entities located within the Navajo Nation, such
17 as banks. The Navajo Nation *Ethics in Government Law* mandates accountability in
18 government by employees and officials of the Navajo Nation. This mandate includes
19 financial accountability, as well as adherence to particular standards of conduct. 2 N.N.C. §
20 3742(A). To ensure compliance with these mandates, it is accepted and understood that
21 subpoenas may be issued to public and private entities on or outside the Navajo Nation,
22 including financial institutions such as banks.

23 24 **Section Three. Amending Ethics Administrative Hearing Rules**

25 The Navajo Nation hereby amends ethics Administrative Hearing Rules as follows:

26 _____
27 ****

28 5. SUBPOENAS
29
30

1 A. Parties may request the Office of Hearings and Appeals that subpoenas be issued for
2 certain documents and/or the testimony of certain witnesses. Responsibility for costs and
3 servicing subpoenas shall rest with the requesting party.

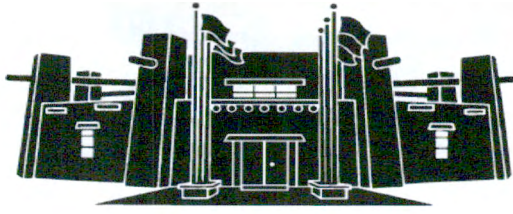
4 B. Prior to the filing of a formal complaint with the Office of Hearings and Appeals, the
5 Ethics and Rules Office, through its presenting officer or director, may request the issuance
6 of investigatory subpoenas for compelling interviews of individuals or for the production of
7 documents, and any other tangible items. Upon showing of good cause, the Office of
8 Hearings and Appeals shall issue such investigatory subpoenas.

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11 **Section Four. Effective date**

12 The amendments enacted herein shall be effective upon approval by the Law and Order
13 Committee of the Navajo Nation Council.


14
15 **Section Five. Savings Clause**

16 Should any provision of Administrative Hearing Rules amended and adopted herein be
17 determined invalid by the Navajo Nation Supreme Court, or the District Courts of the Navajo
18 Nation without appeal to the Navajo Nation Supreme Court, those provisions of the rules
19 which are not determined invalid shall remain effective.



MEMORANDUM

To : Hon. Edmund Yazzie, Council Delegate
Navajo Nation Council

From : 
Ron Haven, Attorney
Office of Legislative Counsel

Date : June 27, 2018

Re : AN ACTION RELATING TO LAW AND ORDER; AMENDING ETHICS
ADMINISTRATIVE HEARING RULES FOR PURPOSES OF
CLARIFICATION; AUTHORIZING INVESTIGATORY SUBPOENAS

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. The resolution drafted is legally sufficient, although, as with all legislation, challenges are possible in the courts. You are advised and encouraged to review the proposed resolution to ensure that it is drafted to your satisfaction. If you are satisfied with the proposed resolution, please sign it as "sponsor" and submit it to the Office of Legislative Services where it will be given a tracking number and sent to the Office of the Speaker for assignment. As you may be aware, the Speaker is authorized to refer this proposed resolution to other committees than those stated in the title.

If the proposed resolution is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like made to the proposed resolution. Ahéhee'.

OLC # 18-313-1

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



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SPONSOR: Edmund Yazzie

TITLE: An Action Relating To Law And Order; Amending Ethics And Rules
Administrative Hearing Rules For Purposed Of Clarification; Authorizing
Investigatory Subpoenas

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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.

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