

**RESOLUTION OF THE
HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE
OF THE NAVAJO NATION COUNCIL**

22nd NAVAJO NATION COUNCIL – SECOND YEAR, 2012

AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES; DELEGATING HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE POWER SET FORTH AT 2 N.N.C. § 401 (B)(4)(b) TO THE NAVAJO BOARD OF EDUCATION TO INCREASE EFFICIENCY AND STREAMLINING OF GOVERNMENT PROCESSES IN THIS MATTER PURSUANT TO THE COMMITTEE-APPROVED ADMINISTRATIVE RULES AND REGULATIONS GOVERNING THIS DELEGATION AND THE RESCISSION OF SUCH DELEGATION.

BE IT ENACTED:

Section 1. Findings

1. The Navajo Nation Council by Resolution CAP-10-11, April 21, 2011, enacted the "2011 Amendments of Title 2" that reduced the number of delegates to the Navajo Nation Council from 88 to 24 members pursuant to an initiative vote of Navajo voters.

2. Under the reorganization of the standing committees of the Navajo Nation Council, the Health, Education and Human Services Committee was one of the five new standing committees of the Navajo Nation Council. The Committee was delegated at least three functions of previous standing committees and assigned to oversee matters relative to health, social service, education, general governmental services and human services.

3. Pursuant to 2 N.N.C. § 401 (B)(4)(b), the Health, Education and Human Service Committee is authorized to approve, sanction and authorize application, reapplications, reauthorization and amendments for Indian Self-Determination and Education Assistance Act contracts and grants under the Tribally Controlled Schools Act for the operation of education programs, approval or denial of authorizations and reauthorizations shall constitute approval or denial by the Navajo Nation the Tribal Governing Body.

4. Further, pursuant to 2 N.N.C. § 401(B)(5), the Health, Education and Human Service Committee is authorized to delegate responsibilities and authorities as appropriate to the Divisions, Chapters and appropriate entities for efficiency and streamlining of government processes provided that the Committee first approves rules and regulations governing such delegations and rescission of such delegations.

5. The Navajo Department of Dine Education is the administrative agency within the Navajo Nation with responsibility and authority for implementing and enforcing the educational laws of the Navajo Nation. 2 N.N.C. § 1801(B); 10 N.N.C. § 107(A). The Navajo Nation Board of Education is the education agent in the Executive Branch for the purposes of overseeing the operation of all schools serving the Navajo Nation. 10 N.N.C. § 106(G)(3).

6. The Navajo Nation Board of Education reviews and recommends the reauthorization of Indian Self-Determination and Education Assistance Act contracts and grants under the Tribally Controlled Schools Act for the operation of education and education-related programs in accord with the contract application for a certain number of years up to three years and bases an formulates its recommendations upon the testimony, reports, and supporting information provided by the contract schools and the monitoring reports and recommendations provided by the Department of Dine Education. The Navajo Nation Board of Education also recommends to the oversight committee to condition its sanction, approval and authorization upon the standard conditions which the Navajo Nation places upon Navajo Nation tribal organizations which are authorized to operate BIE-funded education and education-related programs.


7. The Navajo Nation determines that in the best interest of the Nation, the power of the Health, Education and Human Services Committee set forth at 2 N.N.C. § 401 (B)(4)(b), should be delegated to approve, sanction and authorize applications, reapplications, reauthorizations and amendments for Indian Self-Determination and Education Assistance Act contracts and grants under the Tribally Controlled Schools Act for the operation of education programs, approval or denial of authorizations and reauthorizations shall constitute approval or denial by the Navajo Nation the Tribal Governing Body.

8. Pursuant to 2 N.N.C. § 401(B)(5), the Health, Education and Human Services Committee delegates, effective immediately, its power set forth at 2 N.N.C. § 401 (B)(4)(b) to the Navajo Board of Education to increase efficiency and streamlining of government processes in this matter pursuant to the Committee-approved Administrative Rules and Regulations governing this delegation and the rescission of such delegation, attached as Exhibit A.

9. The Health, Education and Human Services committee hereby requires the Navajo Nation Office of Monitoring, Evaluation and Technical Assistance ensure that all schools that wish to exercise their option to convert to grant or contract status and all schools currently operating under the authority of Public law 93-638 or Public law 100-297 in order to maintain authorization from the Navajo Nation to operate their schools, to comply with the approved and applicable provisions of the Grant/Contract Conversion/Maintenance Handbook as approved by Resolution ECF-12-01.

CERTIFICATION

I hereby certify that the foregoing Resolution was duly considered by the Health, Education and Human Services Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and the same was passed by a vote of 5 in favor, 0 opposed and 0 abstained, this 16th day of May, 2012.



Jonathan Hale, Chairperson
Health, Education and Human Services
Committee

Motion: Honorable Charles Damon
Second: Honorable Walter Phelps

ADMINISTRATIVE RULES AND REGULATIONS FOR THE DELEGATION OF AUTHORITY TO THE NAVAJO NATION BOARD OF EDUCATION REGARDING P.L. 93-638 AND P.L. 100-297 CONTRACT REAUTHORIZATION APPLICATION AND APPROVAL

I. AUTHORITIES

A. The Navajo Nation Council, by Resolution No. CAP-10-11, amended provisions of Title Two of the Navajo Nation Code and established the Health, Education and Human Services Committee with authority to delegate responsibilities and authorities as appropriate to the Divisions and Chapters for efficiency and streamlining of government processes provided that the Committee first approves rules and regulations governing such delegations and rescission of such delegations. 2 N.N.C. § 401(B)(5).

B. The Health, Education and Human Services Committee by 2 N.N.C. 401(B)(4)(b), has the final authority to grant approval, sanction and authorize application, reapplications, reauthorization and amendments for Indian Self-Determination and Education Assistance Act contracts and grants under the Tribally Controlled Schools Act for the operation of education programs, [and the] approval or denial of authorizations and reauthorizations shall constitute approval and denial by the Navajo Nation Governing Body.

C. The Department of Diné Education is established by Resolution CJY-39-05 (amended by GSCMY-19-07) with authority to enforce educational laws on the Navajo Nation. The Superintendent of the Department of Dine Education is authorized to administer and manage the Department of Dine Education.

D. The Department of Diné Education is responsible to ensure quality education, accountability, and compliance with Navajo Nation legislative mandates, applicable federal rules, statutes and laws by monitoring, evaluating and providing technical assistance to schools and providing technical assistance to BIE schools.

II. DELEGATION

A. Pursuant to 2 N.N.C. § 401(B)(5), the Health, Education and Human Services Committee hereby delegates to the Navajo Nation Board of Education the authority to approve P.L. 93-638 and P.L. 100-297 Contract Reauthorization Applications for a one, two or three-year terms for the operation of education and education-related programs and/or residential programs, pursuant to Public Law 93-638 and Public Law 100-297, and in accord with the grant application and BIA-funded education and education-related programs. Guidelines that shall govern the number years of reauthorization shall be as follows:

1. One or less year(s) reauthorization shall be granted where schools and/or residential programs have material weaknesses in their current financial audit reports, which includes, but is not limited to serious audit findings, failure to submit audits, etc.

2. Two-year reauthorization shall be granted to schools and/or residential programs that do not have material weaknesses in their current financial audit reports, but have not met academic proficiency based on the current existing academic assessment systems in place.

3. Four-year reauthorization shall be granted to schools and/or residential programs that do not have material weaknesses in their current financial audit reports and met academic proficiency based on the current existing academic assessment systems in place.

4. Any recommendation to retrocede an educational program to the Bureau of Indian Education (BIE) or if a BIE school converts to a Public Law 93-638 contract or Public Law 100-297 grant school shall be subject to final approval by the Health, Education and Human Services Committee.

5. A challenge to the number of years or reauthorization as approved by the Navajo Nation Board of Education may be finally reviewed by the Health, Education and Human Services Committee.

B. Unless provided otherwise, the Navajo Nation Board of Education shall exercise this delegation without further review and approval by the Health, Education and Human Services Committee.

C. This delegation of authority to the Navajo Nation Board of Education shall not be delegated to any other Navajo Nation official or entity.

III. AUTHORITY, DUTY AND RESPONSIBILITY

A. All P.L. 93-638 and P.L. 100-297 Contract Reauthorization Applications shall be administratively reviewed, processed and recommended by the Superintendent of Schools of the Department of Diné Education before presentation to the Navajo Nation Board of Education.

1. All-Navajo Nation Board of Education approval shall be by a quorum consisting of a simple majority of all voting members and shall be by written resolution duly certified by the presiding officer, setting forth the action taken and signed by the presiding officer.

2. This delegation of authority does not authorize the Navajo Nation Board of Education to reallocate funds authorized for specific schools.

B. The Superintendent of the Department of the Diné Education and the Director of the Office of Monitoring, Evaluation and Technical Assistance shall implement and administer the approved P.L. 93-638 and P.L. 100-297 Contract Reauthorization Applications for the operation of education and education-related programs and/or residential programs, pursuant to Public Law 93-638 and Public Law 100-297, in accord with the grant application and BIA-funded education and education-related programs.

IV. REVIEW AND AMENDMENT

A. The scope and administration of this delegation of authority may be evaluated and reviewed annually by the Health, Education and Human Services Committee of the Navajo Nation Council for compliance and the continuance of the delegation of authority.

B. The Superintendent of the Department of the Diné Education shall report on the status of school reauthorizations to the Navajo Nation Board of Education and the Health, Education and Human Services Committee at least twice each year.

C. Pursuant to 2 N.N.C. § 401(B)(5) and other applicable authorities, this Administrative Rule may be amended by the Health, Education and Human Services Committee of the Navajo Nation Council upon the recommendation of the Navajo Nation Board of Education or this delegation of authority may be rescinded in whole or in part at any time without cause.