

## LEGISLATIVE SUMMARY SHEET

Tracking No. 0219-20

**DATE:** September 3, 2020

**TITLE OF RESOLUTION:** AN ACTION RELATING TO AN EMERGENCY FOR THE NAVAJO NATION; OPPOSING ALL IN-PERSON INSTRUCTIONS AT ALL SCHOOLS INTENDING TO REOPEN WITHIN THE NAVAJO NATION AMIDST COVID-19; SUPPORTING THE NAVAJO NATION BOARD OF EDUCATION IN RECOMMENDING VIRTUAL LEARNING

**PURPOSE:** This resolution, if adopted, would oppose all in-person instructions at all schools intending to reopen within the Navajo Nation amidst Covid-19. It would further support the Navajo Nation Board of Education in recommending Virtual Learning.

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.

## PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL -- Second Year, 2020

INTRODUCED BY



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(Prime Sponsor)TRACKING NO. 0219-20

## AN ACTION

RELATING TO AN EMERGENCY FOR THE NAVAJO NATION; OPPOSING ALL  
IN-PERSON INSTRUCTION AT ALL SCHOOLS INTENDING TO REOPEN WITHIN  
THE NAVAJO NATION AMIDST COVID-19; SUPPORTING THE NAVAJO NATION  
BOARD OF EDUCATION IN RECOMMENDING VIRTUAL LEARNING

## WHEREAS:

A. Pursuant to 2 N.N.C. §164 (A)(16) “[m]atters constituting an emergency shall be limited to the cessation of law enforcement services, and 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. Such an emergency matter must arise due to the pressing public need for such resolution(s) and must be a matter requiring final action by the Council.”

B. Schools reopening and decisions to resume in-class instruction directly threaten the sovereignty of the Navajo Nation in protection its children.

C. The Navajo Nation Board of Education on August 6, 2020 passed resolution “Approving and recommending that all Navajo Nation Schools Provide Virtual or Online Learning Options Only, With No Face-to-Face Instruction.” Exhibit A, NNBEAU-658-2020. Again, on September 3, 2020, the Board of Education passed resolution “Opposing Plans by the Bureau of Indian Education (BIE) to Reopen Schools on September 16, 2020 with Face-to-Face Instruction.” Exhibit B, NNBESE-666-2020. The Board directed “that

1 all BIE-Operated Schools on the Navajo Nation provide Virtual or Online Learning  
2 Options with No Face-to-Face Instruction.” *Id.*

3 D. Due to the continuing coronavirus (COVID-19) pandemic, the Navajo Nation Council  
4 fully supports the Navajo Nation Board of Education’s opposition to any in-class school  
5 instruction, and instead to allow children to learn safely from home through virtual  
6 learning.

7 E. COVID-19 is a virus causing serious respiratory illness. Many cases involving death  
8 continue to be reported across the United States.

9 F. In March 2020, the Navajo Nation began taking measures to protect its people, issuing  
10 emergency public health orders. *See, Emergency Management Commission resolution*  
11 *CEM 20-03-11; Executive Orders Nos. 001-20, 002-20, 003-20, 004-20; Public Health*  
12 *Emergency Orders 2020-001, 2020-002, 2020-003, 2020-004, 2020-005, 2020-006, 2020-*  
13 *007, 2020-008* (incorporated herein by this reference). In spite of these measures, the  
14 infection rate within the Navajo Nation increased tremendously. For a period of time, the  
15 Navajo Nation had the highest per capita rate for COVID-19 positive tests in the United  
16 States. Today, although the rates have come down, positive tests continue to be reported.  
17 The serious health concerns posed by COVID-19 has not changed. The virus remains  
18 extremely contagious, and presently there is no vaccine.

19 G. The Navajo Nation is a sovereign Nation, governing all matters within its territorial  
20 jurisdiction. *See, Treaty of 1868.* This sovereign status, which is well-established, permits  
21 the Navajo Nation to exercise authority over schools located within its boundaries,  
22 including schools operated by or through the United States government. The Navajo  
23 Nation has an inherent right to determine all aspects of education within its jurisdiction,  
24 including decisions on the safety of Navajo school children. Parents of Navajo school  
25 children, as well, have the right to determine under what conditions their children attend  
26 schools operated and funded by the federal government.

**NOW THEREFORE BE IT RESOLVED:**

1. The Navajo Nation hereby supports the Navajo Nation Board of Education opposing in-class instruction for all schools operating within the Navajo Nation, particularly schools operated through the U.S. Government including Public Law 100-297 grant schools, Public Law 93-638 contract schools and Bureau of Indian Education-operated schools. The Navajo Nation further supports the Board of Education's opposition to the Bureau of Indian Education's plan to reopen schools September 16, 2020 with in-class instruction.

2. Until the complete safety of all Navajo children can be assured by the federal and state governments, the Navajo Nation supports virtual learning for all schools located on the Navajo Nation.

3. For any school currently providing in-person instruction, the Navajo Nation strongly recommends that schools cease such operations immediately.

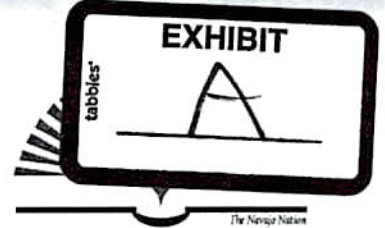
4. The Navajo Nation expects the complete cooperation of all federal and state agencies to ensure that all schools located with the Navajo Nation provide virtual learning only, with no in-class instruction.





**DEPARTMENT OF DINÉ EDUCATION  
THE NAVAJO NATION**

P.O. Box 670 · Window Rock, Arizona 86515  
PHONE (928) 871 – 7475 · FAX (928) 871 – 7474



Jonathan Nez  
President

Myron Lizer  
Vice-President

NNBEAU-658-2020

**RESOLUTION OF THE  
NAVAJO NATION BOARD OF EDUCATION**

**Relating to Education; Approving and Recommending that all Navajo Nation Schools Provide Virtual or Online Learning Options Only, with No Face-to-Face Instruction.**

**WHEREAS:**

1. The Navajo Nation Board of Education (hereinafter the “Board”) 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 (A). The Board carries out its duties and responsibilities through the Department of Diné Education (hereinafter the “Department”). 10 N.N.C. §106 (G)(3).
2. The Department 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 Department is under the immediate direction of the Navajo Nation Superintendent of Schools, subject to the overall direction of the Board. 10 N.N.C. §107(B).
3. The Navajo Nation has substantial authority and broad jurisdiction to regulate all matters within its territorial boundaries pursuant to its inherent sovereignty and the Treaty of 1868. This authority and jurisdiction include the ability to oversee and regulate matters regarding state public schools, Public Law 100-297 grant, Public Law 93-638 contract, Bureau of Indian Education-operated schools, higher education institutions, and all FACE programs, early childhood education programs, and Navajo Head Start programs located on the Navajo Nation.
4. The Coronavirus disease (“COVID-19”) is a global pandemic infecting substantial numbers of people, which and has spread exponentially and increased globally, as indicated by the Centers for Disease Control (“CDC”), the and World Health Organization (“WHO”), and other public health organizations located within the United States and regionally.
5. The Board maintains that the COVID-19 pandemic ~~has~~ highlighted the importance of our multiple school systems (Bureau of Indian Education-funded, public, charter, private) and the need for a consistent, coherent, actionable and fully resourced plan to support every school and school district reopening during the 2020-21 academic year.

**NAVAJO NATION BOARD OF EDUCATION**

*Priscilla B. Manuelito, President · Spencer W. Willie, Vice President · Dr. Victoria Yazzie, Secretary*  
*Member: Sharon A. Toadecheenie · Marlene Burbank · Dr. Henry Fowler · Andrea K. Thomas*  
*Freda Nells · Joan A. Gray · Emerson John · Dr. Pauletta White*  
*Patricia Gonnig, Acting Superintendent of Schools*

6. The Board contends that the reopening of schools should be a local or regional decision informed by applicable health, safety and disinfecting recommendations articulated by the Centers for Disease Control and Prevention, as well as Navajo Nation, state and local health agencies. The COVID-19 crisis has revealed the urgency of integrating strategies and processes to promote students' health, social and emotional learning, and well-being as essential components of their academic growth, development, and achievement.
7. The Navajo Nation's school reopening guidelines were developed in consultation with stakeholders from BIE-funded schools, school leaders, BIE officials, parents, and other stakeholders. The guidelines affirm the work and efforts to support local school superintendents, school leaders and administrators, parents, students, ~~etc and other stakeholders~~, to ensure a smooth transition to reopen schools for the 2020-21 school year in a manner informed by health data, applicable and actionable CDC, Navajo Nation, state and local health agency guidance, while ~~and~~ prioritizing the health and safety of students and staff.

**NOW THEREFORE BE IT RESOLVED THAT:**

1. The Navajo Nation Board of Education hereby approves and recommends that all schools located on the Navajo Nation, including Public Law 100-297 grant schools, Public Law 93-638 contract schools, Bureau of Indian Education-operated schools, public schools (including charter schools)-located on the Navajo Nation, private schools, higher education institutions operating on the Navajo Nation, early childhood programs including CCDF, Head Start, FACE Programs, and all after-school programs provide virtual or online learning options only, without face-to-face instruction, until the Navajo Nation deems it safe to return to face-to-face instruction.
2. The Navajo Nation Board of Education hereby directs and empowers the Superintendent of Schools to take any actions deemed as necessary and proper to carry out the purposes of this resolution.

**CERTIFICATION**

I hereby certify that the foregoing resolution was duly considered by the Board of Education of the Navajo Nation at a duly called meeting at Window Rock, AZ (Navajo Nation) at which a quorum was present, motion by Andrea K. Thomas and seconded by Spencer W. Willie and that the same was passed by a vote of 10 in favor; 0 opposed; 0 abstained, this 6th day of August 2020.



Priscilla B. Manuelito, President  
Navajo Nation Board of Education

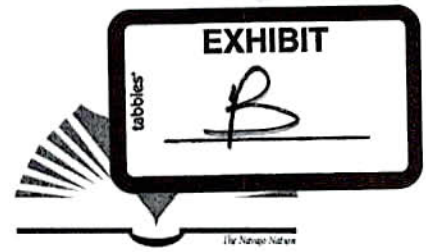




Jonathan Nez  
President

**DEPARTMENT OF DINÉ EDUCATION  
THE NAVAJO NATION**

P.O. Box 670 · Window Rock, Arizona 86515  
PHONE (928) 871 – 7475 · FAX (928) 871 – 7474



Myron Lizer  
Vice-President

NNBESE-666-2020

**RESOLUTION OF THE  
NAVAJO NATION BOARD OF EDUCATION**

**Relating to Education; Opposing Plans by the Bureau of Indian Education (BIE) to Reopen Schools on September 16, 2020 with Face-to-Face Instruction; Directing that all BIE-Operated Schools on the Navajo Nation Provide Virtual or Online Learning Options with No Face-to-Face Instruction.**

**WHEREAS:**

1. The Navajo Nation Board of Education (hereinafter the “Board”) 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 (A). The Board carries out its duties and responsibilities through the Department of Diné Education (hereinafter the “Department”). 10 N.N.C. §106 (G)(3).
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3. The Navajo Nation has substantial authority and broad jurisdiction to regulate all matters within its territorial boundaries pursuant to its inherent sovereignty and the Treaty of 1868. This authority and jurisdiction include the ability to oversee and regulate matters regarding state public schools, Public Law 100-297 grant, Public Law 93-638 contract, Bureau of Indian Education-operated schools, higher education institutions, and all FACE programs, early childhood education programs, and Navajo Head Start programs located on the Navajo Nation.
4. The Coronavirus disease (“COVID-19”) is a global pandemic infecting substantial numbers of people, which has spread exponentially and increased globally, as indicated by the Centers for Disease Control (“CDC”), the World Health Organization (“WHO”), and other public health organizations located within the United States and regionally.
5. The Board maintains that the COVID-19 pandemic highlights the importance of our multiple school systems (Bureau of Indian Education-funded, public, charter, private) and the need for a consistent, coherent, actionable and fully resourced plan to support every school and school district reopening during the 2020-21 academic year.

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*Member: Sharon A. Toadecheenie · Marlene Burbank · Dr. Henry Fowler · Andrea K. Thomas*  
*Freda Nells · Joan A. Gray · Emerson John · Dr. Pauletta White*  
*Patricia Gonnig, Acting Superintendent of Schools*

6. During a telephone conference on August 13, 2020, the BIE Acting Associate Director Charles Sherman assured the Navajo Nation President Jonathan Nez and the Department that BIE schools operating schools on the Navajo Nation would begin online learning with no in-person instruction. He has since changed his position.
7. The Navajo Nation's school reopening guidelines were developed in consultation with stakeholders from BIE-funded schools, school leaders, BIE officials, parents, and other stakeholders. The guidelines affirm the work and efforts to support local school superintendents, school leaders and administrators, parents, students, and other stakeholders to ensure a smooth transition to reopen schools for the 2020-21 school year in a manner informed by health data, applicable and actionable CDC, Navajo Nation, state and local health agency guidance, while prioritizing the health and safety of students and staff.
8. The Board and the Navajo Nation strongly request the BIE to honor the sovereignty of the Navajo Nation, the standing Navajo Nation health orders, and the Board's support for online learning only for the duration of first semester of the 2020-2021 school year.

**NOW THEREFORE BE IT RESOLVED THAT:**

1. The Navajo Nation Board of Education hereby opposes plans by the Bureau of Indian Education (BIE) to reopen schools on the Navajo Nation on September 16, 2020 with face-to-face and in-person instruction and directs all BIE-operated schools to provide virtual or online learning options only, with no face-to-face instruction, for the duration of first semester of the 2020-2021 school year or until the Navajo Nation deems it safe to return to face-to-face instruction.
2. The Navajo Nation Board of Education hereby directs and empowers the Superintendent of Schools to take any actions deemed as necessary and proper to carry out the purposes of this resolution.

**C E R T I F I C A T I O N**

I hereby certify that the foregoing resolution was duly considered by the Board of Education of the Navajo Nation at a duly called meeting at Window Rock, Arizona (Navajo Nation) at which a quorum was present, motion by Dr. Henry Fowler and seconded by Joan A. Gray and that the same was passed by a vote of 9 in favor; 0 opposed; 0 abstained, this 3rd day of September 2020.



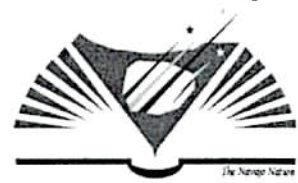
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**NNBESE-666-2020**

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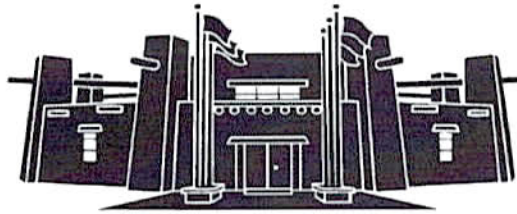
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Priscilla B. Manuelito, President  
Navajo Nation Board of Education





## MEMORANDUM

To : Hon. Daniel Tso, Delegate  
Navajo Nation Council

From : *Marianna Kahn for*  
Ron Haven, Attorney  
Office of Legislative Counsel

Date : September 3, 2020

Re : AN ACTION RELATING TO AN EMERGENCY FOR THE NAVAJO NATION; OPPOSING ALL IN-PERSON INSTRUCTIONS AT ALL SCHOOLS INTENDING TO REOPEN WITHIN THE NAVAJO NATION AMIDST COVID-19; SUPPORTING THE NAVAJO NATION BOARD OF EDUCATION IN RECOMMENDING VIRTUAL LEARNING

As requested, I have prepared the above-referenced proposed resolution and associated legislative summary sheet pursuant to your request for legislative drafting. As to format, the resolution as drafted is legally sufficient. Regarding substance, as with any legislation, it can be subject to review by the courts in the event of proper challenge. Please ensure that this particular resolution request is precisely what you want.

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. 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 # 20-357-1



THE NAVAJO NATION  
LEGISLATIVE BRANCH  
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: \_0219-20\_\_

SPONSOR: Daniel E. Tso

**TITLE: An Action Relating To An Emergency For The Navajo Nation; Opposing All In-Person Instruction At All Schools Intending To Reopen Within The Navajo Nation Amidst COVID-19; Supporting The Navajo Nation Board Of Education In Recommending Virtual Learning**

***Date posted: September 8, 2020 at 4:26 PM***

Digital comments may be e-mailed to [comments@navajo-nsn.gov](mailto: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.:** 0219-20

**SPONSOR:** Honorable Daniel E. Tso

**TITLE:** An Action Relating To An Emergency For The Navajo Nation; Opposing All In-Person Instruction At All Schools Intending To Reopen Within The Navajo Nation Amidst COVID-19; Supporting The Navajo Nation Board Of Education In Recommending Virtual Learning

**Posted:** September 8, 2020 at 4:26 PM

**5 DAY Comment Period Ended:** Not Subject to 5 Day Hold

**Digital Comments received:**

Comments Supporting	1) Duane Chili Yazzie
Comments Opposing	<i>None</i>
Inconclusive Comments	<i>None</i>

  
\_\_\_\_\_  
Legislative Tracking Secretary  
Office of Legislative Services

09/09/20 3:50pm  
\_\_\_\_\_  
Date/Time

0219-20

Duane Chili Yazzie <chili\_yazzie@hotmail.com>

Wed 9/9/2020 8:44 AM

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

i support this legislation, the physical and healthy survival of our Dine' people overrides all modern pressures including the perceived need to comply with compulsory formal education, particularly the state mandated colonializing curriculum.

i strongly recommend that in resolved no. 1 to include state public schools on the listing of school types. to not specifically include state public schools will signal to the state Boards of Education, the public-school districts that they have leeway, especially with the current wording that emphasizes non-public schools by saying "particularly" Federal funded contract, grant and BIE schools.

there will be push back from the public schools. it is a matter of the lives of our children, our families and our notion of sovereignty, we must stand against the continued intrusion by the state governments on our people and our lands.

chili yazzie

Shiprock, Navajo Nation

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