

RESOLUTION OF THE
BUDGET AND FINANCE COMMITTEE
OF THE NAVAJO NATION COUNCIL

23RD NAVAJO NATION COUNCIL - Fourth Year, 2018

AN ACTION

RELATING TO THE HEALTH, EDUCATION, AND HUMAN SERVICES
COMMITTEE AND THE BUDGET AND FINANCE COMMITTEE; ACCEPTING THE
PERFORMANCE EVALUATION OF THE NAVAJO NATION BOARD OF EDUCATION
SUBMITTED BY THE OFFICE OF THE AUDITOR GENERAL, AND APPROVING
THE CORRECTIVE ACTION PLAN SUBMITTED BY THE NAVAJO NATION
BOARD OF EDUCATION

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Health, Education and Human Services Committee (HEHSC) is the oversight committee of the Navajo Nation Board of Education. 2 N.N.C. § 401(C)(3).
- B. As the oversight committee for the Navajo Nation Board of Education, HEHSC is to receive audit reports and corrective action plans. 12 N.N.C. § 7(E).
- C. The Budget and Finance Committee (BFC) is charged with receiving and approving audit reports from the Auditor General. 12 N.N.C. §§ 6(A) and 7(D).

SECTION TWO. FINDINGS

- A. The Auditor General submitted an audit report for the Navajo Nation Board of Education (the Board) in accordance with 12 N.N.C. § 7(D). The Audit Report, "Navajo Nation Board of Education Performance Evaluation," No. 18-01, dated October 6, 2017, is attached as **Exhibit A**.
- B. The performance evaluation was conducted by the Office of the Auditor General in conjunction with LeCompte, P.C. to evaluate the performance of the Board against its specified function, duties, and responsibilities as provided in 10 N.N.C. § 106.

C. The audit report lists six (6) findings and recommendations for corrections. The findings are as follows:

1. The Board's performance against the specific duties and responsibilities, as specified in 10 N.N.C. § 106(G)(3) and other related provisions within the section, indicates that the Board has fulfilled its commitments in some areas, but is yet to act on them in others.
2. Grounds were identified for redefining the role of the Board from its current status of a governing body (or quasi-governing body) into that of an advisory and policy making body.
3. Instances of Board members leaving meetings in the middle of such meetings and without notice have caused disruptions in the smooth conduct of meetings and the completion of the scheduled agenda.
4. P-card usage was not in accordance with Navajo Nation policy and procedures.
5. A lack of proper documentation to support the use of personal vehicles for board meetings and travel by board members, and
6. Delayed approval and adoption of Board meeting minutes.

D. Additional details on the findings and recommendations are included in **Exhibit A**.

E. The Board prepared a corrective action plan, which is attached as **Exhibit B**.

SECTION THREE. ACCEPTANCE AND APPROVAL

A. The Navajo Nation hereby accepts Audit Report, "Navajo Nation Board of Education Performance Evaluation," No. 18-01, dated October 6, 2017, attached as **Exhibit A**, and approves the corrective action plan, attached as **Exhibit B**.

B. The Navajo Nation directs that copies of the Board's Corrective Action Plan be provided to HEHSC as part of its oversight responsibility for the Navajo Nation Board of Education.

- C. The Navajo Nation directs the Board to submit a written status report on its progress in implementing the corrective action plan to the Office of the Auditor General six months after the approval of this resolution.
- D. The Navajo Nation directs the Office of the Auditor General to review the written status report submitted by the Board and to report the results to HEHSC and BFC.
- E. The Navajo Nation directs the Office of the Auditor General to conduct a follow-up review twelve months after the approval of this resolution to verify the actions claimed to have been taken by the Board, to issue a written follow-up report indicating the Board's progress in implementing the correction action plan, and to make recommendations to HEHSC and BFC.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Budget and Finance Committee of the Navajo Nation Council at a duly called meeting held at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 4 in favor and 0 opposed, this 11th day of April, 2018.


Seth Damon, Chairperson
Budget and Finance Committee

Motion: Honorable Tom T. Chee
Second: Honorable Lee Jack, Sr.



OFFICE OF THE AUDITOR GENERAL

The Navajo Nation

Navajo Nation Board of Education Performance Evaluation

**Report No. 18-01
October 2017**

Performed by:
I.E. COMPTE P.C.



M-E-M-O-R-A-N-D-U-M

TO : Bennie Begay, President
NAVAJO NATION BOARD OF EDUCATION

FROM : 
Elizabeth Begay, CIA, CFE
Auditor General

DATE : October 6, 2017

SUBJECT : Performance Evaluation of the Navajo Nation Board of Education

The Office of the Auditor General herewith transmits Audit Report No. 18-01, Performance Evaluation of the Navajo Nation Board of Education. The performance evaluation was conducted, in conjunction with Le Compte, P.C., Certified Public Accountants to evaluate the performance of the Board of Education against its specified function, duties and responsibilities as stipulated by Section 106 of the Navajo Sovereignty in Education Act of 2005.

The auditors reported six (6) findings:

1. The Board's performance against the specific duties and responsibilities, as specified in Section 106 (G) (3) of the Act of 2005 and other related provisions under this section, has disclosed that the Board has fulfilled its commitments in some areas but is yet to act on others.
2. Redefine the role of the Board from its current status of a governing body (or a quasi-governing body) into that of an advisory and policy making body.
3. Instances of Board members leaving board meetings in the middle of such meetings and without notice have caused disruptions in the smooth conduct of meetings and the completion of the scheduled agenda.
4. Board members p-card usage not in accordance with Navajo Nation policies and procedures.
5. Lack of proper documentation to support use of personal vehicles for board meetings and travel by board members.
6. Delayed approval and adoption of Board meeting minutes.

Detailed explanation of the findings can be found in the body of this report. The report provides recommendations to correct the reported findings. The Navajo Nation Board of Education has agreed to resolve the findings.

If you have any questions about this report, please contact our office at (928) 871-6303.

xc: Navajo Nation Board of Education members
Tommy Lewis, Superintendent of Schools
DEPARTMENT OF DINE EDUCATION
Jonathan Hale, Chairperson
HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE
Joshua Lavar Butler, Acting Chief of Staff
OFFICE OF THE PRESIDENT/VICE-PRESIDENT
Pete Ken Atcitty, Chief of Staff
OFFICE OF THE SPEAKER
Chrono

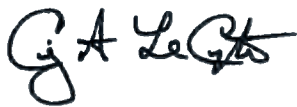
October 6, 2017

Dear Ms. Begay,

Pursuant to our engagement letter with the Office of the Auditor General, Le Compte, P.C. hereby transmits the Performance Evaluation Report of the Navajo Nation Board of Education (the "Board"). The Board is mainly governed by the provisions of Section 106 of the Navajo Sovereignty In Education Act of 2005 (within Title 10 of the Navajo Nation Code) and works closely with the Department of Dine Education.

The scope of this Performance Evaluation covered the one year period from October 1, 2015 to September 30, 2016, and we have noted 6 findings as a result of this evaluation. These findings are elaborated in the enclosed report along with our recommendations for corrective action. Should there be any questions, please contact us at (505) 994-3001.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig A. Le Compte". The signature is stylized with a large "C" and "L".

Craig A Le Compte, CPA
Le Compte, P.C.
Rio Rancho, NM

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INTRODUCTION AND BACKGROUND

Le Compte, P.C. has conducted a Performance Evaluation of the Navajo Nation Board of Education (the "Board") for the one year period ended September 30, 2016. This Performance Evaluation was requested by the Office of the Auditor General after selecting the Board for such an evaluation.

BOARD OF EDUCATION

The Board, was established by Section 106 of the Navajo Sovereignty In Education Act of 2005 (the Act) under Title 10 of the Navajo Nation Code and works closely with the Department of Dine Education ("DODE"). The Board is under the administrative control and supervision of the Executive branch of the Navajo Nation government and the oversight control of the Health, Education and Human Services Committee ("HEHSC") of the Legislative branch. As per Section 106, the Board was established for the purpose of overseeing the operation of all schools serving the Navajo Nation and performs other functions as enumerated under Section 106 (G) of the Act by working closely with DODE.

The Board consists of 11 members, five of whom are elected for a four-year term, one at large from each of the five agencies (Western, Chinle, Fort Defiance, Shiprock and Eastern) and the remaining members are appointed by the Navajo Nation President for a six-year term, subject to confirmation by the HEHSC of the Navajo Nation Council. Currently, the Board has only eight members with three vacancies to be filled by the Navajo Nation President. Membership qualifications for both elected and appointed members of the Board and provisions pertaining to meetings, compensation and powers and duties are enumerated under Section 106 of the Act as referred to above.

DEPARTMENT OF DINE EDUCATION

As stated in Section I of DODE's current Plan of Operation, Navajo Division of Education was originally established in 1971 as per Navajo Tribal Council Resolution CJN-60-71. The name of the Navajo Division of Education was changed to the Department of Dine Education (DODE) in 1995 as per Government Services Committee Resolution GSC0-81-95 and DODE remained within the Executive branch of the Navajo Nation Government. The Navajo Sovereignty In Education Act of 2005 (The Act), was adopted by the Navajo Nation Council, Resolution CJY-37-05 in July 2005, which established DODE in its present form within the Executive branch of the Navajo Nation. DODE is under the immediate direction of the Navajo Nation Superintendent of Schools and the Superintendent is appointed by the Board subject to confirmation by the Navajo Nation Council based upon recommendation to be made by HEHSC. The Superintendent is empowered to do all things necessary and proper to carry out the responsibilities of the Board. As DODE is in the Executive branch, the Superintendent shall work cooperatively with the President of the Navajo Nation; however, DODE is also subject to the overall direction of the Board.

ACCOMPLISHMENTS

Since inception in 2005, the Board and DODE have accomplished a lot by working together and the approval of the Dine School Accountability Plan or DSAP by the U.S. Department of Education and Interior in September 2016 is a remarkable achievement for which both DODE and the Board should be given due credit and recognition. Approval of DSAP is only the beginning and not the end of the process. The ultimate goal and ambition of DODE and the Board is to establish DODE as the State Education Agent or SEA at par with the various State Governments within the United States of America and they are dedicated to achieving this coveted status within the next four to five years.

OBJECTIVE, SCOPE AND METHODOLOGY

The objective of this Performance Evaluation was to evaluate the performance of the Board against its specified functions, duties and responsibilities as stipulated by Section 106 of the Act for the one year period from October 1, 2015 to September 30, 2016.

In performing our evaluation, we interviewed the board members plus DODE's management team, reviewed board meeting minutes and examined other records relevant to the evaluation. Since the Board works closely with DODE and is responsible for appointing the Chief Administrative Officer of DODE, specifically the Navajo Nation Superintendent of Schools, we reviewed the administrative functions and overall operations of DODE to the extent it was considered necessary to meet the objectives of this evaluation.

CONSULTATION STANDARDS

We conducted this Performance Evaluation in accordance with the AICPA Standards applicable to consulting services and the relevant provisions of Section 106 of the Navajo Sovereignty In Education Act of 2005 under Title 10 of the Navajo Nation Code. Those standards require that we plan and perform the evaluation to obtain sufficient and appropriate evidence that provides a reasonable basis for our findings and conclusions based on our audit objectives. An evaluation also includes review of applicable internal controls and compliance with requirements of laws and regulations to the extent that it is considered necessary to satisfy the audit objectives. We believe our evaluation (and the evidence obtained therefrom) provides a reasonable basis for our findings and conclusions.

Le Compte, P.C., remains thankful to the Board members and DODE's management team, plus the Office of the Auditor General staff and leadership, for their cooperation, input and assistance throughout this engagement.

FINDINGS AND RECOMMENDATIONS

Finding 1: Our evaluation of the Board's performance against the specific duties and responsibilities, as specified in Section 106 (G) (3) of the Act of 2005 and other related provisions under this section, has disclosed that the Board has fulfilled its commitments in some areas but is yet to act on others as noted below.

Criteria:

In accordance with Section 106(G)(3) of the Act of 2005, the Board has been assigned specific duties and responsibilities as noted in items (a) through (n) and the Act requires the Board to carry out these duties and responsibilities through DODE. Section 106(G)(1)(b) requires the Board to report to HEHSC at least quarterly and to the Navajo Nation Council annually. In Addition, Section 106(G)(1)(d) requires the Board to provide guidance for the school accreditation activities of the Navajo Nation North Central Accreditation Office.

Condition:

Many of the Board's duties and responsibilities are connected to the establishment of Dine School Accountability Plan (DSAP) which has recently been approved and adopted by the U.S. Department of Education and the Interior on September 27, 2016.

The following table describes the details of these duties and responsibilities and the actions taken by the Board to fulfill them. Out of the 14 items listed below, the Board has acted to fulfill seven but the remaining seven need to be addressed.

Item	Description of Duties and Responsibilities per Section 106	Current Status
(a)	Establish instructional content and achievement standards and customized criterion referenced achievement testing instruments for schools serving the Navajo Nation, including consolidation of the standards of the three states overlapping the Navajo Nation with those of the Navajo Nation for Navajo language and cultural knowledge.	This has been incorporated into the DSAP.
(b)	Establish policies and procedures for carrying out the accountability provisions of the federal education laws with regard to all Bureau of Indian Affairs funded schools serving the Navajo Nation.	This has been incorporated into the DSAP.
(c)	Establish policies and criteria for licensing administrators for Bureau of Indian Affairs funded schools operated under contracts or grants authorized by the Navajo Nation governing body.	No action has been taken by the Board.
(d)	Establish procedures and criteria for	This has been incorporated

	endorsing Navajo language and cultural knowledge programs, and for certifying the competency of instructional personnel to deliver them.	into the DSAP.
(e)	Receive monitoring and evaluation reports on all elementary and secondary educational programs serving the Navajo Nation and provide technical assistance as necessary and desired by such programs within available resources.	No action has been taken by the Board.
(f)	In cooperation with HEHSC, develop procedures to enforce the Navajo Nation school attendance laws.	No action has been taken by the Board.
(g)	Review and endorse or decline to endorse existing elementary and secondary school curricula, teaching and criterion referenced test materials for consistency with the unique needs of Navajo students in all schools serving the Navajo Nation and make recommendations thereon to the state agencies controlling curricula in the public schools.	This has been incorporated into the DSAP.
(h)	Direct the creation and publication of curricula, teaching and criterion referenced test materials as needed for instruction in Navajo language and cultural knowledge.	This has been incorporated into the DSAP.
(i)	Negotiate and recommend to the appropriate Navajo Nation officials joint powers agreements or memoranda of understanding /agreement or other intergovernmental agreements as necessary to coordinate the activities of the Department of Dine Education with the Bureau of Indian Affairs and the departments of education of the states overlapping the Navajo Nation.	No such agreements were entered into during the year covered by this Performance Evaluation; however, agreements with McKinley county school district and the Dine College were entered into during prior years.
(j)	In cooperation with HEHSC, oversee research on the educational achievement, problems, and needs of Navajo Nation students and school systems.	No action has been taken by the Board.
(k)	Propose the needed Navajo Nation education legislation to the HEHSC of the Navajo Nation Council.	No action has been taken by the Board.
(l)	Actively pursue funding to support the activities of Navajo Nation education programs.	No action has been taken by the Board.

(m)	Implement the procedures established under the Grant /Contract Conversion /Maintenance Handbook and recommend such revisions to the Manual as are deemed necessary. Implement the process for reauthorization of school contract/grants.	This is done annually by the Board with the assistance of DODE.
(n)	Board to establish procedures for the enforcement of Navajo Nation Educational laws and implement such laws to the fullest extent of Navajo Nation jurisdiction.	No action has been taken by the Board.

As noted in the prior section, the Board is required to report at least quarterly to HEHSC, and annually to the Navajo Nation Council. However, no such periodic or annual reports have been submitted except for one report that was submitted to the Navajo Nation Council over a year ago in the Navajo language by one of the Board members. With regard to providing guidance for the school accreditation activities of the Navajo Nation North Central Accreditation Office, the Board has been consistently working with DODE's Advance Education office by providing input and guidance to promote these efforts.

Cause:

Lack of strategic planning (with applicable timelines) on the part of the Board as well as DODE is a primary factor for these deficiencies as noted. It should also be recognized that the Board can't perform these functions on its own and has to work with DODE and their staff to accomplish its various duties and responsibilities as specified in Section 106 of the Act. Thus, the Board's capacity to perform is limited by corresponding limitations such as inadequate funding and staff on the part of DODE.

Effect:

The net effects or the outcome of the Board's ongoing efforts and performance can be summarized as follows: (1) The establishment and approval of DSAP which forms the basis for DODE's vision and progress constitutes a partial completion of its duties and responsibilities. (2) On the contrary, the Board is yet to fulfill its duties and responsibilities in the other areas as outlined in the earlier sections.

Recommendation:

- (1) Fulfillment of the various duties and responsibilities, as specified above, is an ongoing process that requires constant review and improvement and would involve close cooperation and interaction between the Board and DODE. As noted earlier, the Board depends on DODE to fulfill these legislative commitments and thus, a joint blueprint for action should be drawn and implemented within a reasonable timeframe.
- (2) Another related issue is the implementation of the academic and educational requirements of DSAP to the fullest extent permitted by applicable Navajo Nation Laws. In this regard, DODE and the Board should work with local schools (Grant,

Contract as well as B.I.E schools) on meeting the DSAP requirements and request them to report their DSAP status on a bi-annual basis.

- (3) The Board should draw up a clear schedule and ongoing time table(s) to prepare and submit the required quarterly and annual reports to HEHSC and the Council in order to ensure the submission of these reports in a timely manner. Assistance from DODE's staff is crucial to the successful implementation of this reporting process, and thus, such assistance should be planned and obtained as necessary.

Finding 2: Our evaluation has identified the following grounds for redefining the role of the Board from its current status of a Governing body (or a Quasi-Governing Body) into that of an Advisory and Policy making body.

(A) Currently , the Board has authority to make administrative decisions with regard to the termination of the Superintendent of Schools at its pleasure whereby it is allowed to function as a governing body. The Act of 2005 does not grant the Board any such explicit authority to terminate the Superintendent at its pleasure.

Criteria:

(1) One of the core objectives of the Act of 2005 was to create DODE and the Board as quasi-independent bodies that are dedicated to promoting the sacred cause of Dine education without political pressures or intervention. Accordingly, the Board consisting of eleven members was established with responsibility to set the overall tone and direction of Navajo education and its future by working with DODE and the Superintendent of Schools. Under the provisions of this Act, the Board was authorized to appoint DODE's Superintendent of Schools, subject to confirmation by the Navajo Nation Council. The termination process for the Superintendent of Schools has not been defined under this Act ; however, the Superintendent, as per his PAF(Personnel Action Form), is currently considered to be an "At Will" employee who serves at the pleasure of the Board and this is not supported by the Act of 2005 (Section 106 (G) (2)).Based upon generally accepted norms of governance, appointment as well as termination are executive functions and the Board should not be allowed to exercise this authority on a unilateral basis without concurrence from the Executive branch , HEHSC and the Council.

(2) In accordance with the customary principles and practice of governance adopted by the Navajo Nation government, the HEHSC and the Executive branch should be discharging their oversight and administrative functions respectively which will allow the Board to concentrate on its duties and responsibilities connected to the promotion of Navajo education as envisioned by the Act of 2005 by providing its valuable input and guidance as an advisory and policy making body.

Condition:

The Organizational structure as per provisions of Section 106 of the Navajo Sovereignty In Education Act of 2005 and DODE's current Plan of Operation has created two centers of

power and authority namely the Board and the Executive branch (Office of the President) and has resulted in a condition whereby DODE and its Superintendent have been placed between the Board on the one hand and the Executive branch on the other.

The current appointment and termination process of the Superintendent of Schools is lacking in two material respects. First, the Executive branch has no direct or formal input in the appointment or termination process. Secondly, the Superintendent is considered to be an "At-Will" employee of the Board serving at its pleasure and thus, is subject to termination at its sole discretion and judgement without any input from the Executive branch, HEHSC or the Navajo Nation Council. This condition is further elaborated as follows.

DODE is under the immediate direction and supervision of the Navajo Nation Superintendent of Schools. The Superintendent is appointed by the Board and such appointment is subject to review and confirmation by the HEHSC and the Navajo Nation Council. The Superintendent is empowered to do all things necessary and proper to carry out the responsibilities of the Board. As DODE is within the Executive branch, the Superintendent is to work cooperatively with the President of the Navajo Nation; however, as DODE is also subject to the overall direction of the Board, the Superintendent is required to work with and report to the Board also, at least on a monthly basis.

DODE has approximately 167 employees all of whom are under the Executive branch but the Superintendent, who oversees these employees, is appointed and directed by the Board. However, the Superintendent's travel and leave schedules are managed and approved by the Executive branch.

Current formalities empower the Board to choose the Superintendent of Schools and recommend such appointment to HEHSC and the Navajo Nation Council for final approval and confirmation; however, the termination of the Superintendent is within the exclusive jurisdiction of the Board and this position is an "At-Will" appointment, subject to discharge at the pleasure of the Board.

Cause:

The existing structures such as the Board, DODE and the Superintendent of Schools and the related formalities are a direct result of the provisions of Section 106 of the Act of 2005 and thus, this legislation has been in operation for over a decade. Certain provisions of this Act have turned out to be inadequate when weighed against the current requirements and changed circumstances.

Effect:

The required sense of stability and continuity is lacking from the position of Superintendent of Schools and makes that position vulnerable to various forms of subjective preference, bias and prejudice, if any, that may exist within the Board.

Recommendations:

1) The appointment of the Superintendent of Schools should go through a four-step process to be considered complete and reliable. These steps are as follows (1) Interview and selection by the Board which is forwarded to the Executive branch for concurrence (2) Executive branch concurs and forwards it to HEHSC. (3) HEHSC concurs and forwards to the Navajo Nation Council for confirmation. (4) The Navajo Nation Council makes the final decision to confirm the appointment.

2) The termination process should be subjected to the same four-step process as well. (1) The Board makes a determination to dismiss the Superintendent and forwards it to the Executive branch. (2) The Executive branch concurs and forwards it to HEHSC. (3) The HEHSC concurs and forwards to the Navajo Nation Council for final resolution. (4) Navajo Nation Council makes the final determination to discharge in the form of a formal Council resolution.

3) Accordingly, Section 106 of the Act of 2005 should be amended to incorporate these recommendations which will add stability and continuity to the position of Superintendent of Schools. This four steps process as recommended will allow all parties to have their due share of input and participation into the decision-making process.

(B) The Board has made an administrative decision with regard to the promotion of Head Start's Assistant Superintendent to that of a Superintendent despite the fact that the Act of 2005 does not grant any such authority to the Board to intervene in the internal decision-making process of DODE.

Criteria:

As per DODE's Plan of Operation and Organizational Chart, the Head Start program operates under the administrative authority and control of DODE's Superintendent of Schools and thus, it is the administrative prerogative of DODE to make decisions regarding promotion of senior Head Start management personnel without any intervention or interference from the Board. It should be noted that the Act of 2005 does not grant the Board any such authority to intervene in the internal decision-making process of DODE.

Condition:

As per the existing Plan of Operation and Organizational Chart of DODE, Head Start program is one of the various constituent programs within the overall management and direction of DODE and its Superintendent of Schools. However, based upon a Resolution of the Board dated June 3, 2016 (Resolution No: NNBEJE-343-2016) and another Resolution of the Navajo Head Start Policy Council dated July 27, 2015 (Resolution No: NHSPC-NHS-008-07-2015), the Navajo Nation Head Start program's Assistant Superintendent position was reclassified and upgraded to that of Head Start Superintendent via a PCQ (Position Classification Questionnaire) dated April 27, 2016 and this reclassification and elevation was approved by the Navajo Nation Department of Personnel Management in their Qualifications Assessment Letter dated January 18, 2017.

Accordingly, the Head Start Program's Assistant Superintendent became a Superintendent with independent in-charge responsibilities for the Head Start program, despite the fact that Head Start program continues to remain a part of DODE's overall administrative structure and Organizational Chart wherein the Head Start program is pictured and represented to be under the overall direction of DODE's Superintendent of Schools. In effect, there are two Superintendent positions within the umbrella of DODE, one for Head Start and the other for all other programs excluding Head Start.

Cause:

Factors such as the necessity to amend DODE's Plan of Operation and Organizational Chart and the consequences of creating two coequal centers of power and authority within a single administrative set up were not given adequate thought and consideration by the Board before passing resolutions in this regard. The Board, an eleven-member body with multiple and differing views and opinions, is not a suitable mechanism to make administrative decisions of this nature.

Effect:

Two coequal centers of power and authority could lead to mismanagement, lack of supervision, fraud, abuse and wastage of resources, break down of internal controls and poor accountability.

Recommendations:

- (1) HEHSC and the Executive branch should issue clear directives and guidelines regarding the administrative structure, organizational relationship and reporting authority between DODE and Head Start to avoid confusion and conflict as to who is in charge of what and who is reporting (and accountable) to who. Based upon such input from HEHSC and the Executive branch, DODE's Plan of Operation and the Organizational Chart should be updated and amended as necessary to reflect the various Executive position titles, reporting structure and accountability.
- (2) Elevation of an Assistant Superintendent position to that of a Superintendent is an administrative decision and the Board should refrain from making decisions of this nature in the future. The Board should limit its role to that of an advisory and policy making body and not extend their authority into administrative side of DODE's business and operations.

Finding 3: Instances of Board members leaving board meetings in the middle of such meetings and without notice have caused disruptions in the smooth conduct of meetings and the completion of the scheduled agenda.

Criteria:

(1) Section 7.02 of the Navajo Nation Board of Education Operating Procedures Manual requires board members to make every effort to attend all scheduled meetings and further clarifies that attendance means presence from Call to Order through Adjournment except for any period of recusal.

(2) Section 7.01(B) stipulates that Board members shall act professionally and courteously and with K'e in their interactions and communications among themselves and with all other persons.

Condition:

(1) Our review of board minutes disclosed at least five instances (meetings held on June 24, 2015, February 5, 2016, April 7, 2016 and June 3, 2016) where board members left board meetings while the meetings were in progress and as a result caused the meetings to end abruptly for lack of quorum and the postponement of the preapproved agenda for those meetings.

(2) Based upon our attendance and observation at the regular board meeting that was conducted on June 15, 2017 at DODE, we noted several interruptions from certain board members when the Superintendent of Schools was presenting his report and the whole atmosphere was charged with tension, discord and hostility as opposed to being one that is conducive to healthy exchange and smooth conduct of business. The Board President had to intervene several times in order to restore order and take the process forward. Right to dissent and present an opposing point of view is a basic right but it should be done with respect and courtesy which was found to be lacking at this meeting.

Cause:

(1) The precise reasons behind these departures during the middle of the sessions have not been documented in the board minutes because the members in question did not provide specific explanations pertaining to such exits. Not returning to meetings after lunch breaks and departures due to differences of opinion appear to be the causes behind such exits.

(2) Neglect and disregard for the standards of conduct as outlined in Section 7.01(B) by certain board members.

Effect:

Instances of this nature damage the reputation and public image of the Board and also restricts the ability of the Board to conduct its business in a timely manner. Subjectivity and negativism are impediments to progress. Lack of economical use of resources is another consequence resulting from these lapses.

Recommendation:

- (1) DODE's leadership and the board members should discuss all issues and circumstances connected to these instances and arrive at a consensus formula to avoid repetition of such incidents in the future. Guidance and intervention by HEHSC and the Executive branch could be sought to mediate and remove these issues, as deemed necessary.
- (2) Consensus, courtesy, mutual respect and team work should replace division, discord and hostility in order to achieve an atmosphere of healthy exchange and constructive dialogue between the Board and its members on the one hand and DODE's management on the other.
- (3) Penalties and consequences for non-compliance with established rules of conduct (per Section 7.01(B) and 7.02 as cited above) should be prescribed and enforced.

Finding 4: P- card usage not in accordance with Navajo Nation policies and procedures.

Criteria:

Per Navajo Nation Purchasing Card (P-Card) Policies and Procedures, P-cards issued to various departments should be used for valid business purposes and such usage should be planned and implemented properly to avoid wastage of funds and unnecessary charges to the P-Card accounts.

Condition:

During our review, we noted at least 10 instances where Navajo Nation P-Card was used to book lodging (\$1,246.20) and airline tickets (\$639.20) for board members for attending education conferences but such travel failed to occur as planned and resulted in "No Show" charges in the amount of \$1,885.40. DODE staff were not able to cancel such bookings and avoid charges due to communication difficulties with board members in a timely manner.

Cause:

Inadequate planning and lack of prompt and timely communication on the part of board members connected to these transactions.

Effect:

Navajo Nation funds have been spent and wasted without any benefit or justification.

Recommendation:

- (1) One solution would be to cancel and surrender the Navajo Nation P-Card to the Office of the Controller in order to avoid reoccurrence of similar issues and consequent wastage of funds. Instead of P-Card, methods such as travel advances and reimbursements could be used to fulfill the travel needs and requirements of board members. If feasible, board members can use their personal credit cards for board related travel and get reimbursed

accordingly. (2) An alternative solution would be to keep the card and continue its usage for Board's business with clear restrictions such as the requirement to provide sufficient and timely notice for cancellation of bookings and penalties against board members who fail to adhere to such restrictions. Clear, specific and well-defined penalties and consequences should be established and enforced to hold board members accountable when they violate the terms and conditions of P-card usage and this could be done through making the necessary amendments to the Board's policies and procedures manual as applicable and necessary.

Finding 5: Lack of proper documentation to support use of personal vehicles for board meetings and travel by board members.

Criteria:

In accordance with the Navajo Nation Travel Policies and Procedures (Navajo Nation Travel Policy and Procedures Handbook-Section XII) related to use of personal vehicles for Navajo Nation business requires that the travelers in question produce copies of valid driver licenses and proof of adequate and current insurance coverage at the time of requesting such travel.

Condition:

Our review of at least ten General Claim forms pertaining to board member travel disclosed that such documentation was not obtained and kept on file in order to safeguard the interests of DODE and Navajo Nation in the event of an accident, death or similar occurrences connected to these travels.

Cause:

Lack of knowledge and attention on the part of the Board and DODE staff for the relevant requirements as noted in the Criteria section.

Effect:

The interests of Navajo Nation are at risk in the event of an accident or death connected to the use of personal vehicle for official business of the Navajo Nation.

Recommendation:

All board members should submit copies of their current valid driver license and proof of insurance to DODE to be kept in their respective files maintained at DODE's administrative office and DODE should ensure such compliance without further delay. Penalties and consequences for such non-compliance should also be prescribed and enforced.

Finding 6: Delayed approval and adoption of Board meeting minutes.

Criteria:

Section (9)(01)(A)(4) of the Navajo Nation Board of Education Operating Procedures Manual states: "At the next scheduled meeting, the minutes of the immediate prior meeting shall be approved by the Board."

Condition:

Based upon our inquiries with the board members and DODE staff and review of meeting minutes, we found that approval and adoption of board meeting minutes for regular as well as special meetings is usually not done in the immediate subsequent meetings as required by Section (9)(01) of the Navajo Nation Board of Education Operating Procedures Manual. Instead, approval takes place several meetings afterwards which translates into an average delay or deferral of 2-3 months. Deferral of this business is not in accordance with the Board's policies and procedures as stated above.

Cause:

Confronted with a heavy workload and a full agenda at each meeting, the Board defers the approval and adoption of minutes to subsequent meetings. Inadequate planning and preparation on the part of DODE and the Board is another reason for the delay.

Effect:

Delay in approval of board minutes means lack ready availability of minutes for public scrutiny if such scrutiny is requested by members of the community. Also, Board resolutions that are connected to board discussions and board minutes remain without support until the board minutes are formally approved and adopted by the Board.

Recommendation:

It is necessary to allocate sufficient time at each meeting for review and adoption of minutes of the previous meeting. The Board should understand its responsibility in this regard as clearly defined by Section (9)(01)(A)(4) of the Board's Operating Procedures Manual and act to implement the same without exception or excuse.

CONCLUSION

The Board, as a collective body and as individual members, has a vital and productive role to play by making a substantial contribution to the cause of Navajo education, language and culture and the best approach to accomplish this goal would be to continue to work with DODE and concentrate on fulfilling its educational responsibilities as assigned by Section 106 of the Act of 2005 under Title 10, but refrain from making administrative decisions for and on behalf of DODE.

Transforming the role of the Board from a governing body into that of an advisory and policy making body and adding stability to the position of the DODE's Superintendent of Schools by revamping the appointment and termination process would prove to be constructive and beneficial changes that allows both the Board and DODE to work together as a team and meet the challenges of tomorrow more effectively.

BOARD'S RESPONSE



**DEPARTMENT OF DINÉ EDUCATION
THE NAVAJO NATION**

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



**Russell Begaye
President**

**Jonathan Nez
Vice-President**

October 5, 2017

Elizabeth Begay, CIA.CFE
Navajo Nation Office of Auditor General
PO Box 708
Window Rock, AZ 86515



Dear Ms. Begay:

We are in receipt of your final draft of the “Performance Evaluation Report” with six (6) Findings of the Navajo Nation Board of Education.

Review the (6) Findings and Response:

Finding 1: Our evaluation of the Board’s performance against the specific duties and responsibilities, as specified in Section 106 (G) (3) of the Act of 2005 and other related provisions under this section, has disclosed that the Board has fulfilled its commitments in some areas but is yet to act on others as noted.

Response:

- (a) Is okay.
- (b) Is okay.
- (c) Need to establish an our certification office or licensing administrators office in cooperation with NTU, and Diné College until such time the federal, state regulations will be complied with.
- (d) Is okay.
- (e) Host a symposium from the four (4) states (Arizona, New Mexico, Utah, and Colorado.) Collect data from the states for evaluation on elementary and secondary education programs serving the Navajo students for providing technical assistance and desired for such programs for resource usage. Research available resources to provide assistance as needed.
- (f) Continue to collect updated data from the tri states regarding policies on attendance. Conduct surveys on a quarterly basis resulting in legislations.
- (g) Is okay.
- (h) Is okay.
- (i) This is conducted through DSAP to continue documentation within that time frame to see if memorandums were done to continue.
- (j) Need to have the NNBOE open an office with funding in collaboration with IRB to create education research and policies.

BOARD OF EDUCATION

Bennie Begay, President · Gloria Johns, Vice President · Delores Greyeyes, Secretary
Members: Dr. Pauline M. Begay · Dolly C. Begay · Patrick D. Lynch · Dr. Bernadette Todacheene · Marlene Burbank
Dr. Tommy Lewis, Superintendent of Schools

(k) The Board currently in the process of amending the Title 10 to be presented at the Winter Council Session. The board has had three work sessions on amendments of Title 10.

(l) We do support DODE programs by resolutions. Such as, the TED and SEIG grants, ODY, and Navajo Nation Library.

(m) Is okay.

(n) Establish procedures to enforce Education Laws.

Finding 2: Our evaluation has identified the following grounds for redefining the role of the Board from its current status of a Governing body (or a Quasi-Governing Body) into that of an Advisory and Policy making body.

Response:

Until Title 10 is changed, we will continue to follow Title 10 as it is written. We will continue to serve as the governing body for all Diné Education programs. There were 2 recommendations made by the auditor:

(A) Per the power and duties of the Board G.2.a the Chief Administrator Officer of the Board should be the Superintendent of Schools who shall be appointed...

Finding 3: Instances of Board members leaving board meetings in the middle of such meetings and without notice have caused disruptions in the smooth conduct of meetings and the completion of the scheduled agenda.

Response:

Recommending a Navajo observer from the Auditor General's Office to be present in the Board meetings. To have a yearly board retreat. To have a strategic planning meeting to address the matters in December and January in Section 1 & 2. NNBEMA-34-08 approved on May 7, 2008. Signed by Jimmie C. Begay and motioned by Virgil Kirk Jr. and motioned seconded by Jack C. Jackson Sr. vote was 4-2.

Finding 4: P-card usage not in accordance with Navajo Nation policies and procedures.

Response:

The Board will request for P-card training and create and establish procedures. Letter agreement with the NNBOE on trips taken to make a commitment to follow through with the travel arrangement. Each board member will receive a (6) month travel report.

Finding 5: Lack of proper documentation to support use of personal vehicles for board meetings and travel by board members.

Response:

All 8 Board members have submitted their driver license information, and proof of insurance. It is currently all on file with DODE.

Response:

The Recording Secretary will draft the meeting minutes, refer to the Board Secretary to do correction and distributes it to Board members prior to the next scheduled meeting.

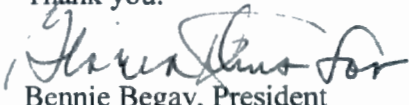
The Board member will response back to the Recording Secretary and Board Secretary.

The Board will get Professional mandatory trainings.

We will begin the process of the Corrective Action Plan based on the recommendations made by the Board and Department of Diné Education within thirty (30) days.

If you have any questions, contact Linda Yazzie, Board Assistant at extension 7479 and Dr. Tommy Lewis at extension 7475 or you can email me at bennie_begay@yahoo.com.

Thank you.



Bennie Begay, President
Navajo Nation Board of Education

XC: Navajo Nation Board of Education Member
Dr. Tommy Lewis, Superintendent of Schools, Department of Diné Education
Linda Yazzie, Administrative Assistant, Department of Diné Education
NNBoE File



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THE NAVAJO NATION**

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EXHIBIT "B"

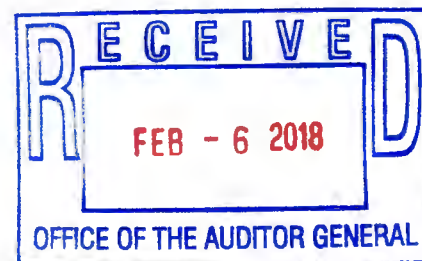


Russell Begaye
President

Jonathan Nez
Vice-President

February 2, 2018

Elizabeth Begay, Auditor General
OFFICE OF THE AUDITOR GENERAL
P.O Box 708
Window Rock, AZ 86515



SUBJECT: Corrective Action Plan - Audit Report No. 18-01

Dear Ms. Begay:

On February 2, 2018, the Navajo Nation Board of Education ("Board") discussed and approved the final corrective action plan after meeting with Helen Brown. If you have any further comments or suggested revisions, please do not hesitate to contact Superintendent Tommy Lewis at (928) 871-7475 or myself at (928) 551-2224.

We appreciate your time and attention to resolving this important matter.

Sincerely,

Dr. Pauline M. Begay
Dr. Pauline M. Begay, President
Navajo Nation Board of Education

CC: Members, Navajo Nation Board of Education
Dr. Tommy Lewis, Superintendent of Schools/Department of Diné Education

BOARD OF EDUCATION

Dr. Pauline M. Begay, President · Marlene Burbank, Vice President · Delores Greyeyes, Secretary
Members: Bennie Begay · Gloria Johns · Patrick D. Lynch · Dr. Bernadette Todacheene
Dr. Tommy Lewis, Jr., Superintendent of Schools

Correction Action Plan
In Response to Final Report
Navajo Nation Board of Education
Dates: November 3, 2017 (Rev. Nov. 30, 2017) (Rev. Dec. 6, 2017) (Rev. Jan. 17, 2018) (Rev. Jan. 24, 2018)

FINDINGS	FINDINGS/OBSERVATION	CORRECTIVE ACTION	RESPONSIBLE PERSON(S)	COMPLETION DATE
#1	<p>The Board's performance against the specific duties and responsibilities, as specified in Section 106 (G) (3) of the Act of 2005 and other related provisions under this section, has disclosed that the Board has fulfilled its commitments in some areas but is yet to act on others.</p> <p><i>(1) Fulfillment of the various duties and responsibilities, as specified above, is an ongoing process that requires constant review and improvement and would involve close cooperation and interaction between the Board and DODE. As noted earlier, the Board depends on DODE to fulfill these legislative commitments and thus, a joint blueprint for action should be drawn and implemented within a reasonable timeframe.</i></p>	<p>(1) The Board and Department, including appropriate personnel, shall convene a Board/Department strategic planning session/retreat as soon as possible. During this planning session/retreat the Board shall to establish additional timelines for implementation of the joint Department/Board blueprint for action.</p> <p>The Department shall meet with program managers to develop this blueprint for action, obtain their input, including establish additional deadlines.</p> <p>The Board and Department shall work with the Health, Education, and Human Services Committee to enact legislation to amend Title 10 (10 N.N.C. §§1-900) to further clarify the Board's duties and responsibilities</p>	<p>(1) Navajo Nation Board of Education, Superintendent of Schools, and Department program managers</p>	<p>(1) December 2018</p>

<p>(2) Another related issue is the implementation of the academic and educational requirements of DSAP to the fullest extent permitted by applicable Navajo Nation Laws. In this regard, DODE and the Board should work with local schools (Grant, Contract as well as B.I.E schools) on meeting the DSAP requirements and request them to report their DSAP status on a bi-annual basis.</p>	<p>(2) The Board shall work with the Department and Superintendent of Schools to establish clear deadlines and expectations of how and when the DSAP will be implemented, including working with local schools on meeting DSAP requirements.</p> <p>The Board shall require the Superintendent of Schools to provide quarterly updates on DSAP implementation.</p>	<p>(2) Navajo Nation Board of Education, Superintendent of Schools, Office of Diné School Improvement (ODSI), Office of Standards, Curriculum, and Assessment Development, (OSCAD), Office of Educational Research and Statistics (OERS)</p>	<p>(2) December 2018</p>
<p>(3) The Board should draw up a clear schedule and ongoing time table(s) to prepare and submit the required quarterly and annual reports to HEHSC and the Council in order to ensure the submission of these reports in a timely manner. Assistance from DODE's staff is crucial to the successful implementation of this reporting process, and thus, such assistance should be planned and obtained as necessary.</p>	<p>(3) The Board, through the Department of Diné Education, shall continue to provide quarterly and annual written reports to the Navajo Nation Council, HEHSC, which is incorporated as part of the Department's quarterly report to the Executive Office of the Navajo Nation and Legislative Branch.</p> <p>The Board shall work with the Department to publish quarterly and annual reports on the Department of Diné Education website.</p>	<p>(3) Navajo Nation Board of Education, Superintendent of Schools, NNBOE President</p>	<p>(3) Quarterly Reports: Winter: January 2018 Spring: April 2018 Summer: July 2018 Fall: October 2018 <u>Annual Report:</u> October 2018</p>

#2

Redefine the role of the Board from its current status of a governing body (or a quasi-governing body) into that of an advisory and policy making board.

(A) Currently, the Board has authority to make administrative decisions with regard to the termination of the Superintendent of Schools at its pleasure whereby it is allowed to function as a governing body. The Act of 2005 does not grant the Board any such explicit authority to terminate the Superintendent at its pleasure.

(B) The Board has made an administrative decision with regard to the promotion of the Head Start's Assistant Superintendent to that of a Superintendent despite the fact that the Act of 2005 does not grant any such authority to the Board to intervene in the internal decision-making process of DODE.

(A) The Board shall revisit its Operating Manual and Procedures to incorporate the audit recommendations to more clearly define the Board's governing body role and due process procedures regarding the termination of the Superintendent of Schools.

(B) The Board has already corrected this finding by rescinding its prior action on this matter. *Resolution* NNBEAU-395-2017 (approved August 18, 2017)

The Board shall enact amendments to its Board operating manual and procedures consistent with existing law (2 N.N.C. 1804, et al.) and clarify their roles, responsibilities, and authority.

The Board shall also comply with applicable Navajo Nation law and personnel policies regarding Department employees.

On an annual basis, the Board shall review and revisit their operating procedures/policies.

(A) Navajo Nation Board of Education

(A) June 2018

(B) Navajo Nation Board of Education

(B) This finding was resolved/ corrected as of August 18, 2017

June 2018

#3	Instances of Board members leaving board meetings in the middle of such meetings and without notice have caused disruptions in the smooth conduct of meetings and the completion of the scheduled agenda.	
	<p>(1) The Board will enact a binding <i>Code of Conduct</i>, based on the Navajo Nation Ethics in Government law for board members.</p> <p>(2) The Board shall implement a process in the Board's operating procedures where: a) a written warning shall be sent to the Board member who walks out of the meeting; b) a repeat offending Board member shall be docked stipends and travel reimbursements if a Board member leaves a meeting without just cause.</p> <p>(3) The Board will also revisit the Navajo Nation Ethics in Government Law regarding the conduct of Board members, including requesting training from the Office of Ethics and Rules. The Board shall file a complaint with the Navajo Nation Ethics and Rules Office regarding violations of law by an individual board member.</p> <p>(4) The Board shall enact amendments to its existing Board operating procedures to include a Table of Penalties.</p>	<p>(1) Navajo Nation Board of Education</p> <p>(2) Navajo Nation Board of Education</p> <p>(3) Navajo Nation Board of Education</p> <p>(4) Navajo Nation Board of Education</p>
		<p>(1) June 2018.</p> <p>(2) June 2018</p> <p>(3) Training by Ethics and Rules on Code of Conduct: June 2018</p> <p>(4) June 2018</p>

#4	Board members P-card usage not in accordance with Navajo Nation policies and procedures.	<p>The Board agrees that unnecessary penalties and cancellations fees are an unacceptable use of the Navajo Nation P-Card. While there are no express provisions in Navajo Nation law or applicable regulations, the Board agrees to implement the following:</p> <p>(1) Deduct any penalties or cancellation fees from any stipends/reimbursements incurred by individual board members (through the P-Card) due to a Board member.</p> <p>(2) The Board shall implement an internal travel agreement/policy that will hold individual Board members responsible for unnecessary penalties and fees arising from any travel cancellation(s).</p> <p>(3) The Board shall request training from the appropriate Navajo Nation entities on P-Card training and reimbursements.</p>	Department of Diné Education Administrative Assistant, Board.	June 2018
#5	Lack of proper documentation to support use of personal vehicles for board meetings and travel by board members.	<p>All board members shall submit up-to-date driver's license information and insurance cards with the Department of Diné Education.</p> <p>New Board members shall be orientated, trained, and requested to provide this information upon taking office. Each Board member will be responsible for providing updated driver's license and insurance cards within 30 days of taking office.</p>	Department of Diné Education - Administration	<p>June 2018</p> <p>December 2018</p>

		<p>The Department of Diné Education shall periodically review Board member files to ensure all driver's license and insurance information is current.</p> <p>The Board will also enact amendments to the Board's operating procedures to ensure compliance with this provision.</p>		
#6	Delayed approval and adoption of Board meeting minutes.	<p>The Board shall review its current operating procedures regarding the timely approval of the meeting minutes and make amendments as deemed necessary to:</p> <p>a) Clarify the role of the Board Recording Secretary and Board Secretary with regards to transcribing meeting minutes and disseminating the minutes to the board members for review and comment.</p> <p>b) Define "reasonable time" in the current operating procedures to include a definite time period (i.e., 72 hours).</p> <p>c) Provide a specific timeline (i.e., 5 working days) for board members to review and comment on the meeting minutes; the lack of response by the board members will be deemed as automatic concurrence with the minutes as provided by the board secretary.</p> <p>d) The Board will also revisit the format for the meeting minutes and identify alternative formats that may help facilitate the timely approval of the meeting minutes.</p>	Navajo Nation Board of Education	April 2018