

RESOLUTION OF THE
NAABIK'IYATI' COMMITTEE OF THE
NAVAJO NATION COUNCIL

23RD Navajo Nation Council---Second Year, 2016

AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES AND
NAABIK'IYATI'; APPROVING FY 2016 TRIBAL CONSULTATION ISSUE
PAPERS OF THE NAVAJO NATION CONCERNING THE WOMEN, INFANT AND
CHILDREN NUTRITION PROGRAM, THE NAVAJO BIRTH COHORT STUDY, HIV
AND THE RADIATION EXPOSURE COMPENSATION ACT

WHEREAS:

1. The Navajo Nation is a sovereign nation, with treaties with the United States government. The United States maintains a unique legal and political relationship with the Navajo Nation.
2. Through Executive Order 13175, dated November 6, 2000, federal agencies must engage in regular and meaningful consultations with Indian nations, including the Navajo Nation, in the development of federal policies having tribal implications.

NOW THEREFORE BE IT RESOLVED:

As a part of the Tribal Consultation process, the Navajo Nation hereby adopts issue papers in the following areas - 1). the Women, Infant and Children Nutrition Program administered by the United States Department of Agriculture, issue statement attached as Exhibit "A;" 2). the Navajo Birth Cohort Study, issue statement attached as Exhibit "B;" 3). the health issue of HIV on the Navajo Nation, Exhibits, issue statements attached as "C" and "D;" and, 4). the Radiation Exposure Compensation Act as administered by the United States Department of Justice, issue statement attached as Exhibit "E."

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Naabik'íyáti' Committee of the 23rd Navajo Nation Council at a duly called meeting in Navajo Nation Council Chambers, Window Rock (Arizona), at which a quorum was present and that the same was passed by a vote of in 18 favor and 0 oppose, this 14th Day of January, 2016.

A handwritten signature in black ink, appearing to read 'LoRenzo Bates', written over a horizontal line.

Honorable LoRenzo Bates, Chairperson
Naabik'íyáti' Committee

Motion: Edmund Yazzie

Second: Herman Daniels, Jr.

NAVAJO NATION

RCS# 230

Naa'bik'iyati Committee

1/14/2016
03:25:20 PM

Amd# to Amd#

Legislation No. 0403-15

PASSED

MOT Yazzie
SEC Daniels

Approving FY 2016 Tribal
Consultation Issue Papers of
the NN Concerning the WIC

Yea : 18

Nay : 0

Not Voting : 6

Yea : 18

Begay, K
Begay, M
Begay, NM
BeGaye, N
Bennett

Chee
Damon
Daniels
Filfred
Hale

Perry
Phelps
Slim
Smith

Tso
Tsosie
Witherspoon
Yazzie

Nay : 0

Not Voting : 6

Bates
Brown

Crotty
Jack

Pete

Shepherd

Issue: Tribal Consultation between the Navajo Nation and U.S. Department of Agriculture; Women, Infant, and Children (WIC) Nutrition Program

Background:

The Navajo Nation is a federally recognized Native American Indian Tribe. Navajo Nation has a land base covering approximately 27,245 square miles in the States of Arizona, New Mexico, and Utah. It is one of the largest tribal governments in the United States as well as North America. The population is over 300,000 with about 50% living on the Navajo Nation and the rest residing off the reservation and across the United States.

The Navajo Nation is a sovereign nation and has treaties with the United States government. As such, it administers its own financial, personnel, legal system, and many supportive services. It has a three branch governmental system, Executive, Legislative and Judicial Branches. The Navajo Department of Health is under the Executive Branch which has oversight of the Navajo WIC Program.

The United States has a unique legal and political relationship with Indian tribal governments, established through and confirmed by the Constitution of the United States, treaties, statutes, executive orders, and judicial decisions. In recognition of this special relationship, pursuant to Executive Order 13175 of November 6, 2000, executive departments and agencies (agencies) are charged with engaging in regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, and are responsible for strengthening the government-to-government relationship between the United States and Indian tribes.¹

Navajo Nation values the trust responsibility and relationship with the United States Government. In recent years, Navajo hosted several Tribal Consultation sessions and they have been very productive. These meeting have proven to be interactive and allowed for partnership building with Federal agencies. Navajo Nation strives to expand this trust relationship with all Federal agencies, including the United States Department of Agriculture.

Impact:

One-on-one Tribal Consultation sessions between the Navajo Nation and federal agencies bring tribal leaders and federal agencies together to initiate dialogues and this method of communication reinforces that unique relationship between two sovereign governments. Expectation of the Navajo Nation is to form partnerships and collaboration for the betterment of the Navajo people and citizens it serves on the Navajo Nation.

Recommendations:

- Navajo Nation and USDA participate in one-on-one tribal consultation sessions on an annual basis.
- Solidify a professional partnership between the Navajo Nation and USDA.
- Continue discussions on issues, concerns and recommendations between the Navajo Nation and USDA via telephone conference calls and other multi-media communication systems.

¹ Derived from the World Wide Web at <http://www.whitehouse.gov/the-press-office/memorandum-tribal-consultation-signed-president> on March 6, 2015.

Issue: Direct and Increased Funding to Continue the Navajo Birth Cohort Study (NBCS) on the Navajo Nation for 3 Additional Years, from 2016 to 2019 in the Amount of \$3.5 Million Dollars

Background:

The Navajo Nation includes an estimated 16 million acres of land in the states of New Mexico, Utah and Arizona. From 1948 to 1986, uranium mining and milling on the Navajo Nation, left a large amount of highly toxic and accessible uranium contamination, including over 500 abandoned mine sites. Laboratory and epidemiologic studies from war zones where depleted uranium used suggested prenatal exposure to uranium can be harmful to the developing fetus, birth outcome, and child development; but no comprehensive studies are available to fully understand this health problem. According to the Indian Health Service's Regional Differences in Indian Health 2002-2003 Edition, the infant death rate among the Navajo people is 8.5 deaths per 1,000 live births, compared to 6.9 deaths per 1,000 live births among all races. Only 61% of Navajo mothers with live births received prenatal care in the first trimester as compared to 83% of all U.S. mothers. In the 1980s a study in Shiprock, NM, linked exposure to uranium mine waste to birth defects, but was never followed up. Due to the health differences in birth outcomes and the chance for environmental uranium exposure in the Navajo Nation, the Agency for Toxic Substance and Disease Registry (ATSDR) decided that the study must include education of women and their families about the importance of prenatal care and the potential poor health risks associated with exposure to uranium. Existing preliminary data has identified uranium in urine from some newborn babies at concentrations higher than 95% of adults in the US, and shows some babies with increasing urine uranium over the first year of life – underscoring the need for the work to continue to understand related risks to development.

Impact:

The NBCS will improve the scope of Indian Health Service Care and Delivery; allow for increased maternal child health and well-being of Indian communities; and allow for in-home public health environmental and prenatal education for the young Navajo mothers and their families. These actions will address the health disparities including: disease prevention and maternal health promotion activities to elevate the health status of mothers and babies and communities. The need to expand and increase more appropriate public health education on the study has become evident within the past two years. The current funding is insufficient to reach the 1,500 enrollment target of potential research participants and conduct the originally planned studies to adequately understand the health effects of exposure. Bio-monitoring results are returned back at a slow rate from CDC/ATSDR, which means mothers do not receive results in time to change prenatal exposures. The Navajo Nation would need additional funding to collaborate with the UNM to adequately finish bio-monitoring work in a timely manner.

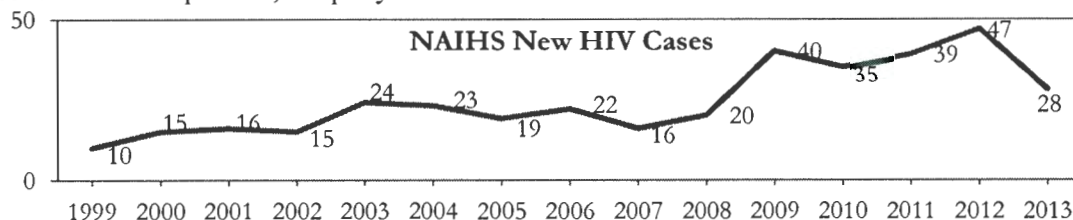
Recommendations:

- The Navajo Nation requests the 114th Congress to fully and directly fund three more years of Navajo DOH Navajo Birth Cohort Study from 2016 to 2019 in the amount of \$3.5 million dollars to continue recruitment and education of Navajo mothers, dads and babies.
- The Navajo Nation recommends emphasis on improved health care through true integration of clinical facilities on Navajo Nation, incorporating environmental exposures into risk assessments.
- The Navajo Nation recommends improving capacity to carry out research on the Navajo Nation through 1) increased training and experience for Navajo Department of Health staff through partnership with UNM researchers in the Navajo Birth Cohort Study; 2) building an environmental health research focus to ensure comprehensive understanding of impacts of contaminants on human health.
- The Navajo Nation recommends the increase of Navajo Birth Cohort Study funding to conduct bio-monitoring laboratory work that will return laboratory results in a timely and cost effective manner.

Issue: HIV is a public health issue among the Navajo people and continues to grow

Background:

Estimates from the Centers for Disease Control and Prevention (CDC) indicate approximately 50,000 Americans become infected with the Human Immunodeficiency Virus (HIV) annually. As a result, the number of people living with HIV in the United States continues to grow by tens of thousands each year, creating more opportunities for HIV transmission. Since 1987, the Navajo Nation has seen a steady increase in new cases of HIV infection with the Navajo Area Indian Health Services (NAIHS) reporting treatment of 463 cases. In 2013, twenty eight (28) new cases were diagnosed on Navajo, yielding a new case rate of 11.31 per 100,000 per year.



In response to this growing epidemic, the Health and Social Services Committee, (now the Health, Education and Human Services Committee) of the Navajo Nation Council established the Navajo Nation HIV/AIDS Office in 1993. With the assistance of this office and other key community partners, the Navajo Nation Council passed the Navajo Nation HIV/AIDS Code in 1994. In 2000, the office was renamed the Navajo Nation HIV Prevention Program. Since its inception, the Navajo Nation HIV Prevention Program has operated with five HIV health educators charged with providing prevention education, condom distribution, and HIV screening to an estimated population of 300,000 Navajo individuals residing within a land base of nearly 26,649 square miles.

Impact:

The effects of the social determinants of health may be harsher with respect to HIV because of its communicable nature. Social determinants of health - the conditions in which people are born, grow, live, work and age, including the health system - weigh more heavily in the cause and course of every leading category of illness than do any attitudinal, behavioral, or genetic determinant. This is the case for heart disease, diabetes, and cancer and it is equally true for the HIV/AIDS epidemic on the Navajo Nation.

Shrinking budgets and health service cutbacks have direct health implications for people living with HIV. Indian Health Service is mainly a primary care, community health system and not funded for tertiary or specialty care. Continued growth in the population living with HIV on the Navajo Nation will ultimately lead to more new infections if prevention, care, and treatment efforts are not coordinated and intensified.

Recommendations:

- The Navajo Nation requests the Centers of Disease Control and Prevention (CDC) to directly fund the Navajo Nation HIV Prevention Program to further the goals of the National HIV/AIDS Strategy and the Navajo Nation HIV/AIDS Act by implementing a High-Impact Prevention approach to service design and implementation.
- The Navajo Nation requests the Secretary of Health and the Office of HIV/AIDS Policy (OHAP) convene a discussion session annually on issues of HIV prevention in Native communities with concerned and engaged community partners on the Navajo reservation.
- The Navajo Nation requests that OHAP work with CDC to fund a HIV capacity building assistance provider to assist tribes and Native community-based organizations with the implementation of public health strategies and evidence-based prevention interventions.

Issue: Inadequate Program funding for Navajo HIV Program**Background:**

The Navajo Nation HIV Prevention Program, established under the Navajo Health Education Program, is funded through a P.L. 93-638 contract between the Navajo Area Indian Health Services and Navajo Nation Department of Health. Over the past seven years, the Program base funding has experienced no significant increases, but has encountered one sequester and three rescission cuts, totaling \$9,375, to the base funding. As a result, the Navajo Nation has limited HIV outreach and education, experienced an inability to increase HIV staffing, and maintains limited HIV operation cost for direct services.

The Navajo Nation HIV Prevention Program Fiscal Year 2015 has a base funding of \$167,624. This base funding is insufficient as it covers salary of four HIV health educators for nine months only, with no allocation of operational costs for staff development and training, or travel costs. Tribal shares are utilized to offset the unmet balance in personnel salary. Unfortunately, there is no guarantee that the tribal shares will be available for use each fiscal year.

Impact:

With this funding shortfall, the HIV health educators are limited in the scope of services offered to an estimated population of 300,000 Navajo individuals residing within a land base of nearly 26,649 square miles. In Fiscal Year 2014, the Program provided prevention education to 34,481 individuals and screened 318 individuals. Currently, three service areas receive limited HIV prevention and screening services: Kayenta and Chinle, Arizona; and Gallup, New Mexico.

Further complicating the situation has been the recent closure of a community-based organization that provided targeted HIV prevention interventions to high-risk populations, linkage to HIV care and case management services. This new gap underscores the need for a comprehensive response from the Navajo Nation to fill the void in crucial services.

HIV related stigma remains high on the Navajo Nation. A coordinated approach utilizing traditional and new media is needed to eliminate this social disparity. With an increased acceptance and use of social media platforms and mobile technologies, the Navajo Nation has a unique opportunity to expand HIV prevention messages in this new environment. To meet this need requires additional funding to support personnel training and technical assistance with the development, implementation, and monitoring of social marketing campaigns on web-based and mobile platforms.

Recommendations:

- The Navajo Nation requests an increase in base funding to employ eight full-time HIV health educators, thereby providing one HIV health educator to each service area.
- The Navajo Nation requests operational funding to allow for purchasing of HIV testing kits, program supplies, and for allocation to cover travel associated with program service deliverables and staff development/training opportunities.
- The Navajo Nation requests funding to design and implement appropriate services to circumvent potential HIV transmissions resulting from anonymous sexual encounters through online and mobile dating apps.

Issue: Barriers with the U.S. Department of Justice, Radiation Exposure Compensation Program, on the processing time to adjudicate claims due to lack of exposure records, medical records, identity records, and residency requirements and barriers with the U.S. Department of Labor, Energy Employees Occupational Illness Compensation Program, under Part “E” which is Federal Workman’s Compensation that does not compensate children under the age of 18 or under 23 that are incapable of self-support at the time of the workers death. Finally, the issue of language barrier must be addressed as elderly Navajos do not speak, nor read the English language.

Background:

Radiation Exposure Compensation Act 1990 (RECA) Public Law 101-426 was signed by President Bush, Sr. “Congress apologizes on behalf of the Nation to the individuals and their families for the hardships they have endured.” In July 1990 the Office of Navajo Uranium Workers (ONUW) was established to register former uranium industry workers and in 1995 ONUW began assisting clients in filing claims pursuant to the RECA 1990 and as amended, Public Law 106-245.

ONUW has over 4000 plus clients registered for representation for compensation pursuant to RECA. ONUW is the only recognized Tribal entity responsible for the administrative tasks for the claims process. In July 2001, the U.S. Department of Labor began processing claims filed under a compensation program created by the Energy Employees Occupational Illness Program Act (EEOICPA). This program pays former uranium industry workers who were approved for compensation under Section 5 of RECA, or their eligible survivors, an additional \$50,000.00 and future medical benefits related to the condition for which they were approved for compensation under RECA. ONUW clients are still enduring hardships with filing their claims with lack of exposure records. Some uranium mine operators did not report earnings of the uranium worker to the Social Security Administration, they paid cash to the uranium mine worker, or they did not keep any records. Medical records of former miners, miller, ore transporters, and downwinders were destroyed, or the uranium industry worker utilized the Navajo Traditional Medicine Man for healing. Identity records were not kept by the Navajo Tribe until the United States Federal Government started the enumeration program. The Navajo have the land use permit and the grazing permit to prove presence on the land. ONUW works closely with other organizations such as Navajo Nation Vital Records, Navajo Nation Courts, the State Vital Records, Radiation Exposure Screening & Education Program with the Indian Health Service, Miners’ Colfax, NIOSH, Social Security Administration, USDOJ, USDOL, and the Professional Case Management for verification of identity, exposure, medical records, and for proof of presence.

Impact:

Navajos sacrificed their health and well-being; they were adversely impacted both physiologically and psychologically by radiation exposure. Exposure to radioactive chemical cause harmful health effects in these individuals.

Recommendation:

- Recommend both Federal Regulations be revisited to accommodate or be compatible with Navajo culture and tradition.
- Recommend possible funding for the ONUW program through the Health and Human Services or through the U.S. Department of Labor to expand ONUW’s services on the 27,000 square miles of Navajo land which includes three states (Arizona, New Mexico and Utah).

Beverly Martinez

From: Sylvia Etsitty <Sylvia.Etsitty@nndoh.org>
Sent: Tuesday, October 27, 2015 2:36 PM
To: Beverly Martinez; Ramona Antone Nez; Belle Lynch; Barbara Ahasteen
Cc: Jonathan Hale
Subject: RE: NDOH Issue Papers
Attachments: Issue Papers for NDOH - HEHSC Review and Action.docx

Importance: High

Good afternoon, Ms. Martinez:

Attached are 4 issue papers that were introduced as drafts during the FY2015 Tribal Consultation Session with Federal Agencies. They still require the approval of the HEHSC. One issue paper was struck as it no longer is applicable.

In addition, as we gear up for the FY2016 Tribal Consultation Session we may have other issue papers developed by the NDOH programs that also will require review and approval.

If you have questions, please contact me via email. Thank you.

S. M. Etsitty Haskie, Acting Program Manager
Health Planner
Office of Planning, Research & Evaluation
Navajo Department of Health
Landline: 928-729-4510
Mobile: 928-241-1399

From: Beverly Martinez [bmartinez@navajo-nsn.gov]
Sent: Tuesday, October 27, 2015 2:21 PM
To: Sylvia Etsitty; Ramona Antone Nez; Belle Lynch; Barbara Ahasteen
Cc: Jonathan Hale; Beverly Martinez
Subject: RE: NDOH Issue Papers

Good Afternoon Ms. Antone Nez and Ms. Etsitty,

Chairman Hale is requesting for the 5 issue papers from NDOH asap – to be submitted for legislation. Please re-submit. Thank you.

Beverly Martinez, Legislative Advisor
Office of Legislative Services
928.871.7175
bmartinez@navajo-nsn.gov

From: jonzcomet [mailto:jonzcomet@yahoo.com]
Sent: Thursday, October 08, 2015 5:37 PM
To: Beverly Martinez; Sylvia Etsitty; Ramona Antone Nez; Levon B. Henry
Cc: Belle Lynch
Subject: RE: NDOH Issue Papers

Can we get those issue papers again for a legislation ?

Sent via the Samsung Galaxy S® 6, an AT&T 4G LTE smartphone

----- Original message -----

From: Beverly Martinez <bmartinez@navajo-nsn.gov>

Date: 10/8/2015 5:11 PM (GMT-07:00)

To: Sylvia Etsitty <Sylvia.Etsitty@nndoh.org>, Ramona Antone Nez <Ramona.Nez@nndoh.org>, Jonathan Hale <jonzcomet@yahoo.com>, "Levon B. Henry" <levonhenry@navajo-nsn.gov>

Cc: Belle Lynch <Belle.Lynch@nndoh.org>, Beverly Martinez <bmartinez@navajo-nsn.gov>

Subject: RE: NDOH Issue Papers

Good Evening Sylvia, Ramona and Chairman Hale and Mr. Henry,

I have forward your email to Chairman Hale and Mr. Levon Henry for review; thereafter your request will be placed on the next HEHSC Regular Meeting , Wednesday November 4, 2015 for Honorable HEHSC members to consider. In the meantime, please send the NDOH position papers for our assigned attorney from Office of Legislative Counsel to review. Thank you.

Beverly Martinez, Legislative Services

Office of Legislative Services

928.871.7175

bmartinez@navajo-nsn.gov

Sent from iPhone

From: Sylvia Etsitty <Sylvia.Etsitty@nndoh.org>

Sent: Thursday, October 8, 2015 4:13:01 PM

To: Beverly Martinez

Cc: Belle Lynch

Subject: NDOH Issue Papers

Good afternoon, Ms. Martinez:

Please be aware that the 2016 DHHS Tribal Consultation is around the corner. As you will remember this past consultation session; we had 5 issue papers that were drafted but they were not fully endorsed by the HEHSC. They are as follows:

1. Tribal Consultation between the Navajo Nation and the U.S. Dept. of Agriculture; Women, Infant, Children (WIC) Nutrition Program.
2. Direct and Increased Funding to Continue the Navajo Birth Cohort Study (NBCS) on the Navajo Nation for 3 additional years, from 2016 to 2019 in the amount of \$3.5 million dollars.
3. HIV as a public health issue among the Navajo people.
4. Inadequate funding for the Navajo HIV Program
5. Barriers with the U.S. Department of Justice, Radiation Exposure Compensation Program, on the processing time to adjudicate claims due to lack of exposure records, medical records, identify records and residency requirements and barriers with the U.S. Department of Labor...

These issue papers were not endorsed or given approval; instead they were submitted as "drafts" to the federal officials when they held their annual consultation session with the Navajo Nation in April 2015. Also there was one other paper on funding for the Navajo Public Health Infrastructure Development; Would you please advise us on how to proceed with taking next steps to obtain clearance/approval for these issue papers through HEHSC. Also, be advised that there may be additional issue papers this year. We will need to identify what those issues will be and draft the papers for HEHSC consideration as well.

Please respond when you can. Thank you.

S. M. Etsitty Haskie, Acting Program Manager

Health Planner

Office of Planning, Research & Evaluation

Navajo Department of Health

Landline: 928-729-4510