

RESOLUTION OF THE
NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL - First Year, 2015

AN ACT

RELATING TO LAW AND ORDER, NAABIK'ÍYÁTI' AND THE NAVAJO NATION COUNCIL; AMENDING THE NAVAJO NATION ETHICS IN GOVERNMENT LAW AT 2 N.N.C §3780 AND THE ELECTION CODE AT 11 N.N.C §8 BY REQUIRING ALL ETHICS JUDGMENTS TO BE SATISFIED PRIOR TO CANDIDACY FOR ELECTIVE PUBLIC OFFICE

BE IT ENACTED:

Section One. Purpose and Findings

1. The Law and Order Committee of the Navajo Nation Council, among other duties and responsibilities, serves as oversight for the Navajo Nation Ethics and Rules Office. 2 N.N.C. §601(C)(1).

2. The Naabik'íyáti' Committee of the Navajo Nation Council, among other duties and responsibilities, "to oversee the conduct and operations of entities of the Navajo Nation not otherwise under the oversight authority of other standing committees, except that such oversight shall not interfere with the prerogative or business decisions of management governing boards." 2 N.N.C. 701(A)(2). The committee further "recommend[s] resolutions to the Navajo Nation Council on matters within the Committee's jurisdiction." 2 N.N.C. §701(A)(3).

3. The Navajo Nation Council enacts laws and sets policy for matters affecting the Navajo Nation. See generally, 2 N.N.C. §102.

4. Pursuant to the Navajo Nation *Ethics in Government Law*, sanctions and penalties are imposed on Navajo Nation officials and employees found in violation of such law. These sanctions and penalties include removal from office, administrative fines, civil damages, orders of restitution and criminal punishment. 2 N.N.C. §§3780, 3781 and 3782. Other penalties also include ineligibility for public elective office for a period of 5 years. 2 N.N.C. §§3780(A)(2) and 3782(D).

5. Candidates for public elective offices should not have any outstanding ethics judgments, including orders for restitution to the Navajo Nation pursuant to the Navajo *Ethics in Government Law*. In this regard, laws of the Navajo Nation must be consistently applicable to all elective positions. Further, the process for enforcement of restitution orders must be clarified.

6. The Navajo Board of Election Supervisors, by resolution BOESO-031-12, generally supports amendments to Navajo Nation law to require that all ethics sanctions be satisfied before candidacies are certified to run for public office. See Exhibit "A." The Chinle Agency Council similarly supports a measure to have the law amended to ensure that candidates for public office have no outstanding ethics judgments. See Exhibit "B."

Section Two. Amendments to Title 2

The Navajo Nation Council hereby amends Title 2, the *Navajo Ethics in Government Law*, as follows:

Title 2. Navajo Nation Government

Chapter 6. Nation Ethics in Government Law

Subchapter 5. Sanctions and Penalties

§ 3780. Administrative sanctions; collection of judgments

A. Upon finding that there has been violation of any provision of this Chapter, the Committee Office of Hearings and Appeals may impose any or all of the following penalties or sanctions:

1. Removal, discharge or termination from public office or employment in accordance with applicable Navajo Nation law and procedure.

2. Disqualification for all elective public offices of the Navajo Nation and/or appointment to or employment in any public office of the Navajo Nation, for five years from the effective date of removal, discharge or any other termination of public office or employment of the Navajo Nation.

3. Suspension from public office or employment and forfeiture of all compensation and benefits accruing therefrom, for not less than 30 days nor for more than one year.

4. Accordingly, any public employee of the Navajo Nation shall be subject to discipline, including suspension without pay or other benefits and dismissal as provided by other laws, regulations and personnel policies or procedures applicable thereto.

5. Issuance of a written public reprimand, which shall be entered into such person's permanent record of employment or office and upon the permanent record of the public office or entity of which such person is a member or employee, according to provision of applicable Navajo Nation law and procedures.

6. Issuance of a private reprimand to such person, with or without suspension of any or all other sanctions provided herein.

7. Imposition of restitution or such other civil penalties as hereinafter provided under §3781.

B. Any person who is found to have violated any provisions of this Chapter shall forfeit any elective public office. This forfeiture provision shall not apply to any person against whom the only sanction imposed under §3780(A) is for a suspension from public office, or a written public reprimand, or private reprimand, or restitution of less than one thousand dollars (\$1,000).

C. No sanctions or penalty provided herein shall limit any other powers of the Navajo Nation Council, Navajo Nation Courts, Judicial, Executive or Legislative Branches of the Navajo Nation, nor of any other entity or administrative

officials or employees under other applicable law, rules, regulations or procedures.

D. Judgments issued pursuant to the Ethics in Government Law which include the payment of money may be collected in any manner authorized for recovery of debts owed the Navajo Nation, including but not limited to garnishment proceedings as authorized by Navajo Nation law and offset provisions of the Navajo Nation Business and Procurement Act, 12 N.N.C. §1501 *et seq.*

E. Employees or officials found to be in violation of the Ethics in Government Law and who are ordered to pay restitution shall be subject to payroll deductions or 15% stipend deductions for the purpose of satisfying such payment. The percentage or amount subject to such payroll deductions shall be the same as that set forth for garnishment proceedings at 2 N.N.C. §3810.

F. All judgments of the Office of Hearings and Appeals, or its successor, shall be satisfied completely as ordered. An individual who does not fully comply with sanctions imposed, including restitution in any amount:

1. Shall not be eligible to file as a candidate for any Navajo Nation elective office;
2. Shall not be eligible for appointment to any appointed position with the Navajo Nation; and,
3. Shall not be eligible for appointment to complete an unexpired term for any Navajo Nation elective office.

Section Three. Amendments to Title 11, Navajo Nation Election Code

The Navajo Nation hereby amends Title 11, the Navajo Nation Election Code, as follows:

Title 11, Navajo Nation Code
Chapter 1. Navajo Election Code of 1990
Subchapter 1. General Provisions

§8. Qualifications for office

E. Ethics violations

An individual shall not be certified as qualified for any public elective office of the Navajo Nation if he or she has not completely satisfied or otherwise has failed to fully comply with any order of any entity, including administrative hearing bodies and courts of the Navajo Nation, authorized to impose sanctions or penalties for violations of the Navajo Nation Ethics in Government Law, 2 N.N.C. §3741 et seq.

Section Four. Effective date

The amendments enacted herein shall be effective pursuant to 2 N.N.C. §221(B).

Section Five. Codification

The amendment shall be codified by the Office of Legislative Counsel in the next recodification or supplement of the Navajo Nation Code to the extent practicable.

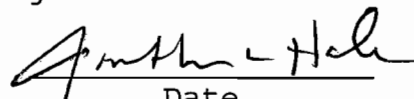
Section Six. Savings Clause

Should any provision of this enactment be determined invalid by the Navajo Nation Supreme Court, or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, portions not determined invalid shall remain the law of the Navajo Nation.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 17 in favor and 0 opposed, this 19th day of May 2015.

Jonathan L. Hale, Pro Tem Speaker
Navajo Nation Council



Date
05/26/15

Motion: Honorable Tuchoney Slim, Jr.

Second: Honorable Raymond Smith, Jr.

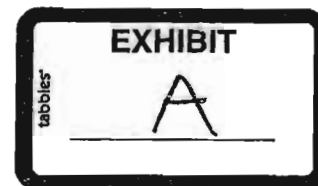
ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (10), on this 5th day of June 2015.


Russell Begaye, President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this _____ day of _____ 2015 for the reason(s) expressed in the attached letter to the Speaker.

Russell Begaye, President
Navajo Nation



BOESO-031-12

RESOLUTION OF THE
NAVAJO BOARD OF ELECTION SUPERVISORS

Recommending Amendments to the Navajo Nation Ethics in Government Law and the Navajo Nation Election Code to require that all sanctions imposed under the Ethics in Government Law be Satisfied prior to certification of candidacies for public elective office

WHEREAS:

1. Pursuant to 2 N.N.C. §873(A)(1), the Navajo Board of Election Supervisors is authorized to administer, implement and enforce the Navajo Election Code.
2. Candidates for elective office are required to meet the qualifications of office set forth in the Navajo Nation Election Code, including those provisions at 11 N.N.C. §8.
3. Elected officials of the Navajo Nation can be sanctioned for violations of the Navajo Nation Ethics in Government Law, 2 N.N.C. §3780. These sanctions include the payment of restitution.
4. It is in the best interest of voters of the Navajo Nation that all sanctions imposed under the Navajo Nation Ethics in Government Law be satisfied before candidacies for public elective office are certified.

NOW THEREFORE BE IT RESOLVED:

The Navajo Board of Election Supervisors hereby supports and recommends amendments to the Navajo Nation Ethics in Government Law and the Navajo Nation Election Code as follows:

Title 11. Elections
Chapter 1. Navajo Nation Election Code of 1990
Subchapter 1. General Provisions

§8. Qualifications for office

E. Ethics violations

An individual shall not be certified as qualified for any public elective office of the Navajo Nation if he or she has not completely satisfied or otherwise has failed to fully comply with any order of any entity, including administrative hearing bodies and courts of the Navajo Nation, authorized to impose sanctions or penalties for violations of the Navajo Nation Ethics in Government Law, 2 N.N.C. §3741 et seq.

Title 2. Navajo Nation Government
Chapter 6. Nation Ethics in Government Law
Subchapter 5. Sanctions and Penalties


§ 3780. Administrative sanctions; collection of judgments

- A. Upon finding that there has been violation of any provision of this Chapter, the Committee may impose any or all of the following penalties or sanctions:
1. Removal, discharge or termination from public office or employment in accordance with applicable Navajo Nation law and procedure.
 2. Disqualification for all elective public offices of the Navajo Nation and/or appointment to or employment in any public office of the Navajo Nation, for five years from the effective date of removal, discharge or any other termination of public office or employment of the Navajo Nation.
 3. Suspension from public office or employment and forfeiture of all compensation and benefits accruing therefrom, for not less than 30 days nor for more than one year.
 4. Accordingly, any public employee of the Navajo Nation shall be subject to discipline, including suspension without pay or other benefits and dismissal as provided by other laws, regulations and personnel policies or procedures applicable thereto.
 5. Issuance of a written public reprimand, which shall be entered into such person's permanent record of employment or office and upon the permanent record of the public office or entity of which such person is a member or employee, according to provision of applicable Navajo Nation law and procedures.
 6. Issuance of a private reprimand to such person, with or without suspension of any or all other sanctions provided herein.
 7. Imposition of restitution or such other civil penalties as hereinafter provided under §3781.
- B. Any person who is found to have violated any provisions of this Chapter shall forfeit any elective public office. This forfeiture provision shall not apply to any person against whom the only sanction imposed under §3780(A) is for a suspension from public office, or a written public reprimand, or private reprimand, or restitution of less than one thousand dollars (\$1,000).

- C. No sanctions or penalty provided herein shall limit any other powers of the Navajo Nation Council, Navajo Nation Courts, Judicial, Executive or Legislative Branches of the Navajo Nation, nor of any other entity or administrative officials or employees under other applicable law, rules, regulations or procedures.
- D. Judgments issued pursuant to the *Ethics in Government Law* which include the payment of money may be collected in any manner authorized for recovery of debts owed the Navajo Nation, including but not limited to garnishment proceedings as authorized by Navajo Nation law and offset provisions of the Navajo Nation Business and Procurement Act, 12 N.N.C. §1501 *et seq.* Employees found in violation of the *Ethics in Government Law*, in addition to any other sanctions, shall be subject to payroll deductions in such amounts.
- E. All judgments shall be satisfied completely unless ordered otherwise. Individuals ordered to pay restitution:
 - 1. Shall not be eligible to file as candidates for any Navajo Nation elective office if they have not fully satisfied judgments relative to sanctions imposed;
 - 2. Shall not be eligible for appointment to any appointed position with the Navajo Nation and shall not be eligible for consideration for employment with the Navajo Nation unless the entire restitution amount is paid; and,
 - 3. Shall not be eligible for appointment to complete an unexpired term for any Navajo Nation elective office.

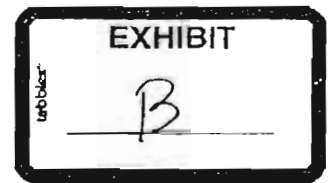
CERTIFICATION

I hereby certify that the foregoing resolution was duly-considered by the Navajo Board of Election Supervisors at a duly-called meeting (within the Navajo Nation) at which a quorum was present and that the same was passed by a vote of 8 in favor, 0 opposed, and 0 abstentions, this 11th day of October, 2012.


Larry Biltah, Chairperson
Navajo Board of Election Supervisors

Motion: Jonathan Tso
Second: Michael Coan

RESOLUTION OF THE
CHINLE AGENCY COUNCIL



Recommending Amendments to the Navajo Nation Ethics in Government Law and the Navajo Nation Election Code to require that all sanctions imposed under the Ethics in Government Law be Satisfied prior to certification of candidacies for public elective office

WHEREAS:

1. Whereas Agency Councils consists of all elected officials within a respective agency of the Navajo Nation;
2. Elected officials of the Navajo Nation are held to a high standard of ethical conduct; they must abide by all laws of the Navajo Nation, as well as federal and state laws;
3. Officials found in violation of the Navajo *Ethics in Government Law*, 2 N.N.C. §3741 *et seq.* can be removed from office, disqualified from office for up to 5 years and ordered to pay restitution;
4. The Navajo Board of Election Supervisors passed resolution on October 11, 2012 requesting amendments to the Navajo Election Code and the Navajo Ethics in Government Law. The purpose of these amendments would be to ensure that all ethics sanctions are complied with, and that no person will be allowed to run for elective office if he or she has not complied fully with such sanctions, including any ordered payment of restitution.

NOW THEREFORE BE IT RESOLVED:

The Chinle Agency Council supports and agrees with the Navajo Board of Election Supervisors that it is in the best interest of voters of the Navajo Nation that all sanctions imposed under the Navajo Nation Ethics in Government Law be fully satisfied before candidacies for public elective office are certified. Resolution of the Navajo Board of Election Supervisors is attached as Exhibit "A."

CERTIFICATION

I hereby certify that the foregoing resolution was duly-considered by the Chinle Agency Council at a duly-called meeting (within the Navajo Nation) at which a quorum was present and that the same was passed by a vote of 27 in favor, 0 opposed, and 0 abstentions, this 13th day of October, 2012.


Harrison Kee, Presiding Chairperson
Chinle Agency Council

Motion: Leonard Rete
Second: Aaron Yazzie