

RESOLUTION OF THE
HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE
of the 25th NAVAJO NATION COUNCIL - FIRST YEAR, 2023

AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE;
AMENDING THE NAVAJO NATION PERSONNEL POLICIES MANUAL SECTION
IV.K.5; APPROVING THE NAVAJO NATION TO HIRE EMPLOYEES ON A
PROVISIONAL BASIS WHILE BACKGROUND CHECKS ARE PENDING

BE IT ENACTED:

SECTION ONE. AUTHORITY

- A. The Health, Education and Human Services Committee (HEHSC) is a standing committee of the Navajo Nation Council. 2 N.N.C. § 400 (A).
- B. The HEHSC is charged with promulgating policies and regulations governing human services and general government services. 2 N.N.C. §§ 400 (C) (1).
- C. The HEHSC oversees the Navajo Nation Division of Human Resources, as well as employment and labor matters. 2 N.N.C. § 401(C) (1) and 401 (C) (6).

SECTION TWO. FINDINGS

- A. The Office of Background Investigations conducts background checks for employees in the executive and legislative branches of the Navajo Nation government in accordance with Section IV.K. of the Navajo Nation Personnel Policies Manual.
- B. The Navajo Nation's executive and legislative branches have experienced significant delays in hiring qualified candidates due to the length of time background checks have taken to complete. Oftentimes while the background checks are pending applicants have accepted other employment, which has caused the Navajo Nation to lose qualified applicants.
- C. Due to the high number of vacancies within the Navajo Nation, allowing employees to begin working while their background checks are pending will enable the Navajo Nation to fill positions of critical importance.

- D. Due to the need to fill positions throughout the Navajo Nation, the Executive Directors of the Division of Human Resources and the Division of Social Services proposed language to allow the Navajo Nation to provide a means hire employees on a provisional basis.
- E. The Navajo Nation Department of Justice has reviewed the proposed amendments to the Navajo Nation Personnel Policies Manual and determined the inclusion of a policy allowing for provisional hiring while background checks are pending to be legally sufficient. The Department of Justice's Request for Services documentation is attached as Exhibit A.

SECTION THREE. AMENDING NAVAJO NATION PERSONNEL POLICIES MANUAL

The Navajo Nation amends the Navajo Nation Personnel Policies Manual as follows:

IV. RECRUITMENT AND SELECTION

K. Background Check and Adjudication for Sensitive Positions

5. Designation of Sensitive Positions

- a. In consultation with the hiring department and subject to final approval by the Human Resources Director or designee, the Department of Personnel Management shall designate sensitive positions pursuant to 5.b. Upon designation the Department of Personnel Management shall inform the Office of Background investigations.
- b. Sensitive positions are those positions with the following job responsibilities:
 - 1. providing child care in a child care facility, or providing for the health, safety and welfare of a child, particularly where responsibility involves direct repetitive contact with a child or unsupervised access to children;
 - 2. providing patient care or providing for the health, safety and welfare of adults and elders;

3. having responsibility for money, receipts and/or disbursement of negotiable instruments, e.g., money, checks and property disbursements;
 4. having responsibility for credit data, credit account records or credit transactions;
 5. carrying and using firearms;
 6. having responsibility for the safety and security of Navajo Nation property;
 7. having routine access to security control and key systems;
 8. having responsibility for controlled substances or toxic, radioactive or other hazardous materials;
 9. having responsibility for confidential information or sensitive data protected by federal, state or Navajo Nation law.
- c. All job vacancy announcements for sensitive positions shall include notice that a favorable background investigation is required.
 - d. ~~The Navajo Nation shall not hire any applicant for a sensitive position until a background check and suitability assessment have been completed.~~ Provisional hire is permitted for an applicant whose position requires a background check if their position falls under or includes criteria number 2,3,4,5,6,7, 8, and 9.
 - e. Provisional hire shall not be permitted for an applicant whose position require a background check and their position falls under or includes criteria number 1.
 - f. ~~e.~~ Upon designation by the Department of Personnel Management, supervisors shall provide written notice to current employees that their positions require a favorable background investigation.

1. A current employee shall submit a completed security application packet to the Office of Background Investigations within 30 calendar days of receiving notice from his/her supervisor that a background check is required for his/her position.
2. An employee who fails to comply with the background check requirement shall be deemed ineligible for continued employment pursuant to the Table of Penalties.
3. A supervisor who fails to notify their employee, in writing, that a background check is required shall be disciplined pursuant to the Table of Penalties.
4. An extension may be granted to an employee who has demonstrated good cause for exceeding 30 calendar days. All extensions must be in writing and approved by the Office of Background Investigations Manager. The Office of Background Investigations shall provide written notice of all approved extensions to the Department of Personnel Management.

SECTION FOUR. DIRECTIVE TO THE DIVISION OF HUMAN RESOURCES

The Executive Director of the Navajo Nation Department of Human Resources shall ensure the ensure the Department of Personnel Management makes the changes, consistent with this Resolution, to the Navajo Nation Personnel Policies Manual as soon as soon as practical, but no later than 30 day from the effective date of this Resolution.

SECTION FIVE. EFFECTIVE DATE

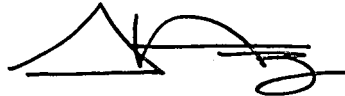
The amendments contained in this Resolution shall be effective upon the signature of the Presiding Chair in accordance with 2 N.N.C. § 189(A).

SECTION SIX. SAVING CLAUSE

Should any provision in this Resolution 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, the remainder of provisions in the Navajo Nation Personnel Policies Manual shall remain effective.

CERTIFICATION

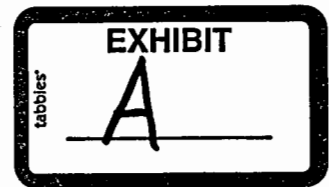
I, hereby, certify that the foregoing resolution was duly considered by the Health, Education and Human Services Committee at a duly called meeting in Twin Arrows Navajo Resort and Casino - VIP Board Conference Room, Leupp, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 5 in Favor, and 0 Opposed, on this 26th day of April 2023.

A handwritten signature in black ink, appearing to be 'Andy Nez', with a stylized flourish at the end.

Honorable Dr. Andy Nez, Chair Pro Tempore
Health, Education and Human Services Committee
25th Navajo Nation Council

Motion by: George Tolth
Second by: Helena Nez Begay

Honorable Dr. Andy Nez, Chair Pro Tempore not voting



NAVAJO NATION DEPARTMENT OF JUSTICE



REQUEST FOR SERVICES

☐ RESUBMITTAL

DOJ
4/14/23 2:50pm
DATE / TIME
RFS #: 23-0466 #4
UNIT: LU

*** FOR NNDJ USE ONLY - DO NOT CHANGE OR REVISE FORM. VARIATIONS OF THIS FORM WILL NOT BE ACCEPTED. ***

CLIENT TO COMPLETE			
DATE OF REQUEST: 4/13/2023		ENTITY/DIVISION: SOCIAL SERVICES	
CONTACT NAME: Roselyn Begay		DEPARTMENT: Office of the Executive Director	
PHONE NUMBER: 871-6851/6873		E-MAIL: Roselyn.Begay@nndss.org	
COMPLETE DESCRIPTION OF LEGAL NEED AND SERVICES REQUESTED (Attach Documents): Resubmitting RFS# 23-0466 #4 for legal sufficiency review.			
DEADLINE:	4/14/2023	REASON:	It's requested by Legislation Sponsor.
DOJ SECRETARY TO COMPLETE			
DATE/TIME IN UNIT: 4/14/23		REVIEWING ATTORNEY/ADVOCATE: Paul	
DATE TIME OUT OF UNIT: 4/14/23		PREPARED BY (initial): d m	
DOJ ATTORNEY / ADVOCATE COMMENTS			
Legally sufficient.			
REVIEWED BY: (PRINT) Paul Spruit		DATE / TIME: 4/14/23 2:56PM	
DOJ Secretary Called: Roselyn Begay		for Document Pick Up on 4/14/23 at By: Jan	
PICKED UP BY: (PRINT)		DATE / TIME:	

3. For purposes of this Subsection, child is defined as a person who is less than eighteen (18) years old.
4. Section K does not apply to commissioned law enforcement personnel, employees of the Navajo Nation Department of Corrections, Navajo Nation Head Start Program employees and employees of the Navajo Nation Gaming Regulatory Office.
5. Designation of Sensitive Positions
 - a. In consultation with the hiring department and subject to final approval by the Human Resources Director or designee, the Department of Personnel Management shall designate sensitive positions pursuant to 5.b. Upon designation the Department of Personnel Management shall inform the Office of Background investigations.
 - b. Sensitive positions are those positions with the following job responsibilities:
 - 1) providing child care in a child care facility, or providing for the health, safety and welfare of a child, particularly where responsibility involves direct repetitive contact with a child or unsupervised access to children;
 - 2) providing patient care or providing for the health, safety and welfare of adults and elders;
 - 3) having responsibility for money, receipts and/or disbursement of negotiable instruments, e.g., money, checks and property disbursements;
 - 4) having responsibility for credit data, credit account records or credit transactions;
 - 5) carrying and using firearms;
 - 6) having responsibility for the safety and security of Navajo Nation property;
 - 7) having routine access to security control and key systems;
 - 8) having responsibility for controlled substances or toxic, radioactive or other hazardous materials;
 - 9) having responsibility for confidential information or sensitive data protected by federal, state or Navajo Nation law.
 - c. All job vacancy announcements for sensitive positions shall include notice that a favorable background investigation is required.
 - d. ~~The Navajo Nation shall not hire any applicant for a sensitive position until a background check and suitability assessment have been completed.~~ Provisional hire is permitted for an applicant whose position requires a background check if their position falls under or includes criteria number 2, 3, 4, 5, 6,

7, 8, and 9.

- e. Provisional hire shall not be permitted for an applicant whose position requires a background check and their position falls under or includes criteria number 1.
- f. Upon designation by the Department of Personnel Management, supervisors shall provide written notice to current employees that their positions require a favorable background investigation.
 - 1) A current employee shall submit a completed security application packet to the Office of Background Investigations within 30 calendar days of receiving notice from his/her supervisor that a background check is required for his/her position.
 - 2) An employee who fails to comply with the background check requirement shall be deemed ineligible for continued employment pursuant to the Table of Penalties.
 - 3) A supervisor who fails to notify their employee, in writing, that a background check is required shall be disciplined pursuant to the Table of Penalties.
 - 4) An extension may be granted to an employee who has demonstrated good cause for exceeding 30 calendar days. All extensions must be in writing and approved by the Office of Background Investigations Manager. The Office of Background Investigations shall provide written notice of all approved extensions to the Department of Personnel Management.

6. Applicability

These policies apply to all employees who are regular status, seasonal, at-will, or temporary, applicants, volunteers, interns, and to employees who are assigned (i.e., transfer, promotion or position reclassification) to a sensitive position. Background checks conducted and completed by other agencies shall not be accepted in lieu of background checks conducted by the Office of Background Investigations.

7. Required Documents for Sensitive Positions

- a. A security packet containing the following documents shall be submitted to the Office of Background Investigations by an applicant being considered for employment into a sensitive position or an employee who is occupying a sensitive position:
 - 1) a Security application;

HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE
Regular Meeting
April 26, 2023

Legislation No. 0083-23: An Action Relating to Health, Education and Human Services Committee; Amending the Navajo Nation Personnel Policies Manual Section IV.K.5; Approving the Navajo Nation to Hire Employees on a Provisional Basis While Background Checks are Pending

Sponsor: Delegate Vince R. James

VOTE TALLY:

Main Motion:

Motion: Honorable George Tolth
Second: Honorable Helena Nez Begay
Vote: 5-0-0

Yea: Helena Nez Begay; Vince R. James; Germaine Simonson; George Tolth;
Curtis Yanito

Nay:

Not Voting: Dr. Andy Nez (Presiding Chair Pro Tempore)

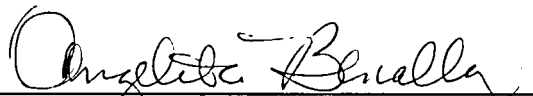
Excused:

Absent:

Vote: 5-0-0



Honorable Dr. Andy Nez, Chair Pro Tempore
Health, Education and Human Services Committee
25th Navajo Nation Council



Angelita Benally, Legislative Advisor
Health, Education and Human Services Committee
Office of Legislative Services