

RESOLUTION OF THE
NAVAJO TRIBAL COUNCIL

Adoption of Members of the Navajo Tribe

WHEREAS:

1. By Resolution No. CF-12-57 the Navajo Tribe has established a procedure for adoption of members of the Tribe who are brought in person before a court of the Navajo Tribe.

2. Experience has proven that certain amendments are necessary to Resolution CF-12-57 to avoid ambiguity and confusion to the courts, and to further protect the rights of adopted Navajo children.

3. The Advisory Committee of the Navajo Tribal Council on August 2nd, 1960, reviewed the proposed amendments to Resolution CF-12-57 and recommended their adoption by the Navajo Tribal Council.

NOW THEREFORE BE IT RESOLVED THAT:

Section 1. Who may be adopted:

Any minor who is a member of the Navajo Tribe of Indians and is brought in person before any Navajo Tribal Court may be adopted, irrespective of place of birth or place of residence. If the judge believes the convenience of the parties and the welfare of the child would be served, he may order any adoption case transferred to another Navajo Court of Indian Offenses.

Section 2. Who may Adopt:

The following persons are eligible to adopt a child:

- (1) A husband and wife jointly, or either the husband or wife, if the other spouse is a parent of the child to be adopted.
- (2) An unmarried person who is at least 21 years of age.
- (3) A married person at least 21 years of age who is legally separated from his or her spouse.

- (4) In the case of a child whose parents are not married, its unmarried father.

Section 3. Persons required to consent to Adoption:

(A) An adoption of a child may be ordered when there have been filed written consents to adoption executed by both parents if living, or the surviving parent, if one is dead.

(B) The consents required by Paragraph A shall be signed in the presence of the judge or clerk of the court, or acknowledged before a Notary Public.

(C) Minority of parents shall not be a bar to the right of consent nor shall it invalidate such consent.

Section 4. Withdrawal of consent:

A consent to adoption may not be withdrawn except by permission of the court given before entry of the final judgement of adoption.

Section 5. Adoptions without parents' consent:

The Navajo Trial Court shall have the authority to approve adoptions without a parent's consent where:

- (1) The parent is dead, or
- (2) The court finds after hearing that the parent has abandoned the child for more than one year or is unfit for its custody.

Section 6. Consent of the child:

Consent of the child, if 12 years of age or over, shall be required for adoption. Such consent shall be in writing and shall be signed in the presence of the judge or clerk of the court or acknowledged before a Notary Public.

Section 7. Petition for Adoption:

(A) A petition for adoption shall be substantially in the form shown in Exhibit A. and shall be filed with the court in duplicate.

(B) One copy of the petition shall be retained by the court. The other shall be sent to the Agency Branch of Welfare.

(C) Any written consent required by these regulations must be attached to the petition.

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(5) Upon filing of a petition the court shall order a date for hearing not more than 90 days from the date of filing of the petition.

Section 8. Investigation:

(A) Upon filing of a petition for adoption the court shall request the Agency Branch of Welfare with the technical assistance of the State and other Government branches of Welfare to make an investigation. Such investigation shall include the history of the child, appropriate inquiry to determine whether the proposed home is a suitable one for the child, and any other circumstances and conditions which may have a bearing on the adoption or custody of and which the court should have knowledge.

(B) The report of the investigation shall be a part of the file in the case and shall contain a definite recommendation for or against the proposed adoption stating the reasons therefor.

Section 9. Temporary Order; Final Judgment:

(A) Upon examination of the report required in Section 8 and after hearing, the court may issue a temporary order giving the care and custody of the child to the petitioners or any suitable person or persons, pending the further order of the court; provided, that if the child is a close blood relative to one of the petitioners, or is a stepchild of a petitioner, or has been living in the house of a petitioner for more than one year preceding the date of filing the petition for adoption, the court may waive the entry of a temporary order, and immediately enter a final judgment of adoption. Where a temporary order is entered, the Agency Branch of Welfare may observe the child in his foster home and report to the court within six (6) months on any circumstances or conditions which may have a bearing on his adoption or custody.

(B) Upon application by the petitioner after six (6) months from the date of the temporary order, or upon the court's own motion at any time, the court may set a time and place for additional hearing. Notice of the time and place of the hearing shall be served on the Agency Branch of Welfare. The Agency Branch of Welfare may file with the court a written report of its findings and recommendations and certify that the required investigation has been made since the granting of the temporary order. After such hearing, the court may enter a final judgment of adoption, if satisfied that the adoption is for the best interests of the child, or may make such other order as it sees fit.

Section 10. Effect of Final Judgment:

(A) After the final judgment of adoption is entered, the relations of parent and child, and the rights, duties and other legal consequences of the natural relation of child and parent shall thereafter exist between the child and the adoptive parents.

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The status of the child as a member of the Navajo Tribe shall not be affected by any adoption, and such child shall not forfeit his rights to inherit from his natural parents by descent or distribution, or otherwise.

(B) After the final decree of adoption is entered, the natural parents of the adoptive child, except a natural parent who is also an adoptive parent or the spouse of an adoptive parent, shall be relieved of all parental responsibilities for said child and have no rights over said child or to his property by descent or distribution, or otherwise.

Section 11. Confidential Nature of record and proceedings:

Unless the court shall otherwise order, all hearings held in proceedings under this Resolution shall be confidential and shall be held in closed court without admittance of any person other than interested parties and witnesses. Further, all papers, records or files pertaining to proceedings under this Resolution, except the final judgment of adoption, kept by the court or by the Agency Branch of Welfare shall be confidential and withheld from inspection except upon order of the court for good cause shown.

Section 12. Registration of Final Judgment of Adoption:

Upon entry of the final judgment of adoption, the court shall forward a copy thereof to the Agency Census Office for its records.

The order of the court will direct the Census Office at the Navajo Agency and all Agency Branch Offices located at the subagencies to so amend family listings, and other records, to properly reflect the final judgment of adoption entered by the Tribal Court. These amended records which contain the names and addresses or other information concerning the adopted child and the adopting parents will thenceforth cease to be available for public inspection. Only those persons obtaining permission from the Assistant Superintendent (Community Services) of the Navajo Agency or his authorized representative shall be given access to said records. No such permission shall be given unless the best interest of the child will be served thereby. The intent of this paragraph is that any information concerning the whereabouts of the adopting parents and adopted child will not be available to the natural parents or parent or other unauthorized persons after final judgment of adoption is decreed by the Tribal Court.

Section 13. Adoption of Adults:

An adult person may be adopted by any other adult person with the consent of the person to be adopted, or his guardian, and with the consent of the spouse, if any, of a sole adoptive parent

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filed in writing with the court. The provisions of Sections 1 to 9 inclusive, of this resolution, shall not apply to the adoption of an adult person. After a hearing and after such investigation as the court deems advisable, if the court finds that it is to the best interests of the persons involved, a decree of adoption may be entered which shall be the legal consequences stated in Section 10.

Section 14. Uniformity of Interpretation:

This resolution shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those jurisdictions which enact it.

Section 15. Repeal:

~~Resolution No. 12-17 of the Navajo Tribal Council,
entitled "Adoption of Members of Navajo Tribe," is hereby repealed.~~

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Tribal Council at a duly called meeting at Window Rock, Arizona, at which a quorum was present and that same was passed by a vote of 64 in favor and 0 opposed, this 18th day of November, 1960.

Scott Preston
Scott Preston
Vice Chairman
Navajo Tribal Council

IN THE NAVAJO COURT OF INDIAN OFFENSES

Held at _____

PETITION FOR ADOPTION

In the Matter of the Adoption of _____ Census No. _____,
a Minor:

To the Navajo Court of Indian Offenses:

This petition for the adoption of the above named minor respectfully shows:

1. The names and addresses of the petitioners are:
(give full name, age and address)
2. Check the proper statement:
 - (a) the petitioners are husband and wife----- ()
 - (b) the petitioner is married to the natural father or
mother of the child----- ()
 - (c) the petitioner is an unmarried person, or a person
legally separated from his or her spouse and is
over the age of 21 years----- ()
 - (d) the petitioner is the unmarried natural father of
the child----- ()
3. The above named minor was born on the ____ day of _____,
19__, (date of birth if known) and is a member of the Navajo Tribe
of Indians.

If the child is 12 years of age or over, its written consent to
adoption is attached hereto.
4. The mother and father of said child give their consent to the adop-
tion of said child by the petitioners, a copy of said consent being
attached hereto, or the following facts exist which excuse consent
on the part of the parent to the adoption:
5. A full description and statement of value of all the property owned
or possessed by said minor child is as follows:

WHEREFORE, the petitioner(s) pray that the court set a time for
hearing this matter and thereafter adjudge that the said child may be
adopted by the petitioner(s).

The undersigned hereby declare(s) that all facts represented in
the above petition are true.

Date _____

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Welfare

Navajo Agency
Window Rock, Arizona

DEC 6 - 1960

NOT RECORDED
Murray 1/14/60

Commissioner, Bureau of Indian Affairs

Washington 25, D. C.

Attention: Tribal Programs

Dear Sir:

Resolution of the Navajo Tribal Council, Number ~~CF-12-57~~, is transmitted to your office for approval action, in three copies. This resolution amends Resolution CF-12-57 to avoid ambiguity and confusion to the courts. It clearly defines the responsibility of the Agency Branch of Welfare and provides for the registration of final judgment of adoption.

With your approval, this resolution will replace Resolution CF-12-57, which was approved by your office on August 28, 1957.

It is the opinion of Navajo Agency that clarification of Resolution Number ~~CF-12-57~~ was badly needed, and approval of ~~CF-12-57~~ is therefore recommended inasmuch as it accomplishes that purpose.

Sincerely yours,

(SGD) K. W. DIXON

ACTING General Superintendent

Enclosures 3

Approved: DEC 14 1960



Assistant Area Director

cc: Area Director-2 w/2 copies of resolution
Field Solicitor, Gallup Area Office w/1 copy of resolution
Assistant to the General Superintendent

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