

# JUDICIAL BRANCH OF THE NAVAJO NATION



## EMPLOYEE POLICIES AND PROCEDURES BEEHAZ' AANII BIK'EHGO DA'INIISH

EFFECTIVE: November 08, 2010  
*Amendments through: July 18, 2013*  
Annotated

**JUDICIAL BRANCH OF THE NAVAJO NATION  
EMPLOYEE POLICIES AND PROCEDURES**

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**JUDICIAL BRANCH OF THE NAVAJO NATION EMPLOYEE POLICIES & PROCEDURES  
NAANISH BEEHAZ'ÁANII BIYIJI' DINÉ K'EHGO ÁDAANTSÁHÁKEES DOO NA'ÁK'IYÁTI'**

Díí Judicial Branch of the Navajo Nation wolyéigo naanish yit'ihígíí éí hoolzhishdégé' Diné bibeel'áanii wolyéhégíí doo la' bii' daasdzohgo bee da'ínísh ít'ée'. K'ad éí Diné nilíinii bibeel'áanii, be'odla', bizaad, be'iina', bina'nitin, dóó yik'ehgo hinánígíí bíł hadít'éigo bíł hadilyaa, áko díí Diné beel'áanii bitsé siléí; bintsáhákees, binahat'a', be'iina', dóó bee sihwidiindzinígíí bibeel'áanii niljigo nizhónigo bidéelníídóó bihónéédzággo bee da'ínísh dooleel biniyé hadilyaa.

This revision of the ájje' Navajo Nation Judicial Branch Personnel Rules includes provisions based on Diné ethics, traditional values, thought and practices, or “naanish bibeel'áanii,” loosely translated in English as laws of work.

Diné Philosophy is important in thinking, planning, practicing and reflecting for positive outcomes in work related duties and activities. The Diné values in this document will be the foundation of employee personal relations and workplace development. We hope that you will remain working with the judicial branch for many years, and while you work with us your experience will be rewarding and satisfying. We want you to do well and to enrich your life with your work. We must also require you to always meet certain standards of work performance and conduct. The operation of the Navajo Nation Judicial Branch is a public trust. Therefore, each employee must conform to its standards in order to maintain public faith, respect and confidence.

**CITATION**

This manual shall be known as the Navajo Nation Judicial Branch Employee's Policies and Procedures. It shall be cited as the “EPP”. In 1977, policies and procedures were adopted by the Judicial Branch of the Navajo Nation. These policies and procedures were revised in 1979, 1986, and 1996. This EPP shall supersede all previous policies and procedures.

**SCOPE**

The Judiciary Committee of the Navajo Nation Council is authorized to approve and adopt policies and procedures by 7 N.N.C. § 401 (2003).<sup>1</sup> This EPP shall apply to all employees and positions within the Judicial Branch, except justices and judges as according to JCJA-02-03 and as amended.

Pursuant to 7 N.N.C. § 371 (2003), the Chief Justice of the Navajo Nation has both the sole responsibility and duty to administer the Judicial Branch, in accordance with law and the approved EPP of the Judicial Branch.

**AMENDMENTS TO THIS EMPLOYEE'S POLICIES AND PROCEDURES**

Every four (4) years or when otherwise directed by the Chief Justice a review of the EPP will be conducted to receive comments and proposals from administrators and staff of the Judicial Branch, and recommend changes to the Judiciary Committee of the Navajo Nation Council, which has the sole authority to amend these policies and procedures.<sup>2</sup>

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<sup>1</sup> Pursuant to Navajo Nation Council Resolution No. CAP-10-11 (May 11, 2011), the Judiciary Committee was disestablished and the Law and Order Committee put in its place. Additionally, 2 N.N.C. §574(L) was over-stricken, meaning that Committee approval over internal branch policies and procedures is no longer required.

<sup>2</sup> See footnote 1.

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**DEFINITIONS**

1. **ADMINISTRATOR** – “Administrator” is all branch personnel who have managerial and/or supervisory responsibilities, excluding associate justices and judge(s), as according to JCJA-02-03 and as amended, unless such are designated as a temporary or interim-administrator by the Chief Justice or his/her designee. Administrator provides long range and administrative direction, official assignments and general supervision. Staff Attorneys are supervised and evaluated by the Chief Justice or his/her designee and their district court judge(s). The performance of a staff attorney is ultimately determined by the Chief Justice.
2. **CLASS** – A grouping of positions or jobs sufficiently similar in duties, authority, and responsibilities in which:
  - a) The same descriptive title can be used; or
  - b) The same qualifications can be required; or
  - c) The same aptitude or proficiency tests can be used; or
  - d) The same pay range can be applied.
3. **CLASS SPECIFICATIONS** – The official written position description which defines the class of work, lists the duties, training, education, and experience standards required for the class or position.
4. **COMPENSATORY PAY** – Payment for hours actually worked in excess of the standard work week.
5. **COMPENSATORY TIME** – Time off for hours actually worked in excess of the standard work week.
6. **CONFLICT OF INTEREST** – The reasonable foresee ability that any personal or economic interest or relationship of an employee will be affected through the performance of the employee’s duties by reason of employment with the Judicial Branch.
7. **CONFIDENTIALITY** – Oral or written information which includes any or all of the following:
  - a) Information intended to be kept in confidence because of the special relation of trust in and reliance on the discretion of the court by the public.
  - b) Protected information, as defined by the Navajo Nation Privacy and Access to Information Act and other statutes.
  - c) Identifying personal information of a complainant or witness requested or required by law not to be disclosed.
  - d) Privileged communications.
  - e) Work product of justices and judges, law clerks, attorneys, or other employee work product and communications, including, but not limited to, emails, notes, papers, discussions, verbal comments, and memorandums.
8. **CORRECTIVE DISCIPLINARY ACTION (Hasht’e náálnííł)** – A process which provides an employee a reasonable opportunity to correct deficiencies in performance or personal behavior and to conform with established work place performance standards.
9. **DATE OF SERVICE** – An employee’s official start date of employment, even if the employee is hired on a temporary basis. If a former employee is rehired after former employment, the date of service commences when the employee begins work after the rehire date, not from the date of service of the previous employment.
10. **DELEGATION OF AUTHORITY** – The act of an administrator, judge, or executive staff giving written authority to another to temporarily assume the duties of the position upon absence or the transfer of authority to another to perform a specific duty.
11. **DISCRIMINATION** – Favorable or unfavorable treatment or the appearance of such, by words or

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- conduct, based upon race, religion, national origin, gender, sexual orientation, disability, age, profession, socio-economic status, political affiliation, or clan.
12. **EXECUTIVE STAFF** – This includes, but is not limited to, the Chief Justice and his/her designee Justice, Director of Judicial Administration, Human Resources Director, Fiscal Director, Attorneys (excluding staff attorneys), Chief Probation Officer, Peacemaking Coordinator, and such other persons as the Chief Justice and his/her designee Justice may designate. Executive staff is under the direct supervision of the Chief Justice and his/her designee Justice.
  13. **FELONY** – Any criminal offense designated as a felony under federal or state law.
  14. **GENERAL WAGE ADJUSTMENT** – A salary adjustment granted to employees from funds approved by the Navajo Nation Council or other funding sources to offset inflation.
  15. **INTRODUCTORY PERIOD (Hol úshjání ál'ijh dóó nihóhontaah)** – The testing or trial period of a new employee.
  16. **JUDGES AND JUSTICES** – As used in the EPP, this refers to active judges and justices currently employed in the branch, as according to JCJA-02-03 and as amended. The definition does not apply to retired judges or justices.
  17. **MORAL TURPITUDE** – Gravely violating accepted moral standards of the community.
  18. **NEPOTISM** – Preferential treatment of a person on the basis of blood or marriage relationship to the extent of the degrees set forth in Section 10 of the EPP.
  19. **PERSONNEL** – As used in the EPP, “personnel” means Judicial Branch employees other than judges and justices, as according to JCJA-02-03 and as amended.
  20. **POSITION DESCRIPTION** – The official written description of the duties, responsibilities, training, education, experience and standards required for a job title.
  21. **PRIVILEGED COMMUNICATION** – All communications recorded by any means, including, but not limited to, memoranda, notes, and other documents intended to be confidential communications among staff attorneys, justices, judges, judicial hearing officers, administrators, supreme court law clerks, and executive staff.
  22. **PROGRAM** – An organized set of services established for purposes of fulfilling the duties and responsibilities of the branch under Title 1, 2 and 7 of the Navajo Nation Code.
  23. **RECLASSIFICATION** – The reassignment of a position from one job class to another job class based upon a change in the position description. Reclassification refers to the job class and position description and not to the individual filling the position.
  24. **REGULAR STATUS EMPLOYEE** – A regular status employee is a Judicial Branch career employee who is not required to serve a probationary period, or a Judicial Branch career employee who has successfully completed a required probationary period and any extension thereof.
  25. **RESTORING HARMONY IN THE WORKPLACE (Baa yáti'go hasht'e doolní'í)** – A process in which supervisors and employees engage in open and honest dialogue, and focus on common interests in resolving employment-related issues with the goal of restoring balance and harmony in the workplace.
  26. **RETALIATION** – Any unjustified disciplinary action taken by a supervisor against an employee, or any frivolous complaint made against an employee, after the employee has filed a grievance, reported an incident, or assisted an investigation of a workplace violation.
  27. **SEXUAL HARASSMENT** – “Sexual Harassment” is any unsolicited and/or unwelcome sexual advance, overture, or conduct either verbal or physical, which has the purpose or effect of interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

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**I. HA'A'AAH, SISNAAJINÍ, NITSÁHÁKEES, YOOLGAI SAAD**

(East, Mt. Blanca/East Mountain, Creative contemplation and Stimulation of the Mind, White Shell Words)



**Nitsahakees** (Creative contemplation, Stimulation of the Mind): EAST - WHITE CORN – SISNAAJINI

Purpose. Contained within the East Cardinal direction our guidelines for the recruitment, testing, and hiring of applicants to positions in the Judicial Branch; establishes safeguards to ensure that position requirements are met; and identifies the hiring authorities for all Judicial Branch positions. All laws that govern the employment relationship in the Judicial Branch apply.

- Nitsahakees is needed to stimulate the mind of an employee to understand a situation or a violation.
- Nitsahakees stimulates the process of thought and speech and in which —baantsahakees doo baanyati' is necessary to think things through.
- Nitsahakees also stimulates the processes of —Nabik'iyati' in which the root of situations and problems are identified and used as resources to resolve a problem.
- Nitsahakees will initiate the processes of na'ak'iyati' (self discipline) which one will use to defend and promote self to becoming a better person and as a professional.

**Section 1: Recruitment, Selection and Hiring of Employees**

A. Responsibility of the Selection and Hiring Authorities

When recruiting, selecting and hiring an applicant to fill a vacancy, the recruitment, selection and hiring authorities shall comply with the Navajo Preference in Employment Act (NPEA), the Judicial Branch Employee's Policies and Procedures, and other applicable laws.

B. Hiring Authority

By delegation of the Chief Justice or his/her designee, the Human Resources Director shall be the hiring authority for all employees within the Judicial Branch.

C. Selection Authority

The selection authority shall be responsible for all duties related to recruiting and selecting an applicant to fill a new and vacant position as outlined in Section 4 of this EPP.

1. Administrative Office of the Courts. The Chief Justice or his/her designee shall select the executive staff. Executive staff members shall select employees within their department or supervision.
2. Supreme Court. Supreme Court personnel shall be selected by the justices.

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3. Judicial Districts.
  - a) Court Administrators. Court administrators shall be selected by the consensus of the director of judicial administration and the judge(s) of the judicial district for which the position is advertised.
  - b) Staff Attorneys. Staff Attorneys shall be selected by the consensus of the Chief Justice or his/her designee, judge(s) and court administrator of the judicial district for which the position is advertised.
  - c) Peacemaker Liaisons. Peacemaker Liaisons shall be selected by consensus of the Peacemaking Program Coordinator, the judge(s) and court administrator of the judicial district for which the position is advertised.
  - d) Probation Officers. Probation Officers shall be selected by consensus of the chief probation officer, and the judge(s) and court administrator of the judicial district for which the position is advertised.
  - e) All Other Judicial District Court Positions. The selection authority for all other judicial district court personnel shall be as specified in the position description.
4. All Other Judicial Branch Positions. The selection authority for all other judicial branch personnel shall be as specified in the position description.

**Section 2: Application**

- A. All applications shall be made on the Judicial Branch Application for Employment form. Applications and other required statements or documents shall be submitted to the appropriate selection authority or as announced in the notice or advertisement.
- B. An applicant's signature on the application document certifies that, to the best of his or her knowledge, all information entered is accurate and complete. Any misrepresentation or omission of any fact in application document, or any other materials used in the application process, or information offered during any interviews, can be justification for refusal of employment, or if employed, termination from employment with the Judicial Branch. The signed application authorizes the Judicial Branch to contact any of the applicant's prior employers for reference purposes.
- C. An application shall be filed within the time period specified in the recruitment announcement. Submissions may be sent by fax or email, as long as the original signed application is mailed or brought in person to the selection authority. Where an applicant has submitted only a resume or an incomplete application for employment prior to the closing date, the applicant may submit additional document(s) to complete the application.
- D. An individual applying for Veterans Preference must complete an Application for Veterans' Employment Preference when submitting a Navajo Nation Judicial Branch Application for Employment along with a copy of DD Form 214/215/225 to receive preference.
- E. An individual applying for Navajo Preference must submit a Certificate of Indian Blood or other evidence of Navajo enrollment.
- F. The Human Resources Director, upon the request of the selection authority, shall extend the closing date until a sufficient number of qualified applicants have applied.



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**Section 3: Employment Qualifications**

- A. Qualifications required for employment with the Judicial Branch shall be those necessary for competent performance of the duties of the position. The necessary qualifications and skills must appear on the position descriptions developed by the affected position's administrator and the Human Resources Director.
- B. The Human Resources Director and selection authority may prescribe an authorized test(s) for job-related skills which may reasonably demonstrate whether the applicant possesses the qualifications required.

**Section 4: Position Vacancies**

Vacant positions may be filled using various employment methods including in-house transfer, public job announcement and the re-employment of "Reduction-In-Force" employees. The intent is to foster a workplace where qualified employees are encouraged to seek various career opportunities, gain valuable work experience, enhance their competencies and increase job satisfaction. The Human Resources Director shall select the most appropriate method to fill a vacant position depending on administrative convenience, the cost and expense of recruitment and any other relevant factors.

- A. Job Vacancy Announcements. If a position within the Judicial Branch becomes vacant or is newly classified, it shall first be announced and posted to all employees within the Judicial Branch and general public for a minimum of ten (10) calendar days.

Interested employee(s) shall submit a letter of interest, updated Judicial Branch Application for Employment form and other updated required statements or documents to the appropriate selection authority.

The selection authority shall screen and conduct a qualification assessment based on the necessary requirements of that vacant position. Applicants currently employed with the Judicial Branch must use personal resources and time outside of work hours to prepare application documents.

If the selection authority is unable to make a selection, a request for re-advertisement shall be made in writing to the Human Resources Director.

- B. Re-employment of "Reduction -In-Force" Employee. Judicial Branch employees who were laid off are eligible for re-employment preference under Section 46 of this EPP.

**Section 5: Selection Process**

- A. Screening. The selection authority shall screen the applications and required documents for necessary qualifications, subject to the requirements of the NPEA and other applicable Navajo Nation laws. Only applicants who meet the necessary qualifications shall be interviewed.
- B. Testing. The selection authority shall administer job-related skills test(s), as may be required, to determine if an applicant meets the necessary qualifications specified in the position description.

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- C. Interviewing. The selection authority may designate additional person(s) to serve on the interview panel and shall interview all applicants who meet the necessary qualifications after required screening and testing.
- D. Ranking. The selection authority shall prepare a written summary ranking all applicants interviewed and submit to the hiring authority. The criteria of the summary shall be based on the duties and responsibilities cited in the respective position description and other factors, for example, education, relevant experience, references, interviews, skill tests, criminal history record, etc.
- E. Other Factors. The ranking of applicants is not determinative on the final selection of an applicant and is subject to subsection (F) below. The selection authority may consider other relevant information or other factors in selecting the applicant, but it must justify its decision in writing if it varies from the ranking.
- F. Selection. The selection authority shall select the most qualified applicant, giving consideration to any employment preferences established by Navajo Nation law and the Judicial Branch. When a selection is made, the selection authority shall immediately forward to the hiring authority the ranking summary, original application, resume, required documents, letters of reference, certificates, and other supporting documents of the person selected.
- G. Final Review. All selections by the selection authority are subject to final review within five (5) working days by the hiring authority for compliance with this EPP, NPEA and as well as background clearance, employment reference, and academic records review for correctness, completeness and/or any omission, misrepresentation or discrepancy.
- H. Notice of Selection. The selection authority shall notify the selected applicant after the selection is reviewed and approved by the Human Resources Director. If the selected applicant declines the position, the next best qualified applicant may be considered for the position; if an applicant is hired and later vacates the position the position shall be re-advertised. All applicants not chosen shall be notified in writing that a selection has been made. If the position is not filled, it may remain open or be re-advertised.
- I. Retention of Employment Applications. Documentation accumulated on all applicants shall be retained by the selection authority for two (2) years for necessary review upon an employment challenge.

**Section 6: Nondiscrimination**

In accordance with NPEA and other applicable Navajo laws, rules, and Employee's Policies and Procedures, the Judicial Branch will not discriminate against any applicant or employee.

**Section 7: Categories of Employment Status**

- A. Regular Employee. An individual who has been designated as a regular employee after successfully completing a required introductory period.
- B. Introductory Employee. An individual who is required to successfully complete a testing and evaluation period prior to being designated as a regular employee.

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- C. Temporary Employee. An individual hired for a term of less than one year to fulfill a specified purpose, or to fulfill the duties of a regular employee who is on leave or otherwise on authorized absence from duty.

**Section 8: Types of Positions**

- A. Regular Full-Time. A position authorized for a forty (40) hour work week.
- B. Regular Part-Time. A position authorized for less than forty (40) hours per week.
- C. Temporary. A short-term job for a term of less than one year, which may be full time or part time with a fixed expiration date.
- D. Volunteer. A non-employee performing services for the Judicial Branch for no Judicial Branch compensation.
- E. Intern. A non-employee performing services for the Judicial Branch who may or may not receive compensation by the Judicial Branch or other sources.

**Section 9: Volunteers**

Purpose. This section sets out the guidelines that must be met before the Judicial Branch can accept the offer of time and service of volunteers. The Judicial Branch welcomes and appreciates volunteer efforts, but needs regulations to protect itself and the integrity of its systems. Court-ordered placements are not considered volunteers. Interns who are compensated by the Judicial Branch are not considered volunteers.

- A. Volunteers may be paid for their services from non-Judicial Branch sources unless it creates a conflict of interest.
- B. Volunteers must be approved or disapproved for service by the administrator of the district where the volunteer will work. Immediately upon approval, the administrator shall submit to the Human Resources Director:
1. A completed Judicial Branch Application for Employment form;
  2. A short statement as to the type of services the volunteer will provide and to the extent possible, the skills the volunteer may have to provide those services;
  3. An estimate of the length of time over which the volunteer will provide services;
  4. Other forms as required.
- C. Volunteers shall have a designated supervisor who shall be an employee of the Judicial Branch. The designated administrator shall be responsible for the volunteer's activities and shall make such reports as may be necessary. The administrator shall have the responsibility of instructing the volunteer on the required protection of court records, the Employee's Policies and Procedures relating to privacy and confidentiality of court records and communications, ex parte communications, and the unauthorized practice of law, prior to voluntary employment.
- D. Volunteers must abide by the EPP and must agree to do so in writing, unless certain provisions are inapplicable due to their status as volunteers.
- E. The Judicial Branch reserves the right to terminate the services of volunteers anytime.

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**Section 10: Family Members**

- A. Nepotism Forbidden. No person shall be hired or assigned to a position in the judicial district, office, or program where a family member is the administrator and/or judge.
- B. Family Member Defined. For purposes of section (A) above, a family member is husband, wife, parent, child, stepchild, foster child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister, aunts, uncle, nieces, nephews or cousins to the first degree and mother in-law and father in-law and brothers in-law and sisters in-law.
- C. Relationship Disclosure. All applicants for positions in the Judicial Branch shall indicate on the official employment application form whether or not a family member is employed by the Judicial Branch and with which judicial district, office, or program. This information will be used to determine the applicant's eligibility for the position. If an employee knowingly fails to disclose a family relationship on the application, that person shall be terminated.
- D. Relationship after Employment. If an employee becomes a family member to the administrator or judge after employment, or as a result of reorganization, a minimum of thirty (30) days will be provided to resolve the conflict. If, after thirty (30) days, no other resolution is possible, the employee with the most recent date of continuous employment will have his/her employment terminated.

**Section 11: Employee Introductory Period**

- A. Employee Introductory Period. All employees except volunteer(s) and intern(s) shall serve an introductory period of ninety (90) calendar days. Prior to the end of the 90-day period, the judicial district, office, or program shall notify the introductory employee, in writing, whether a recommendation for regular employee status will be made, whether the introductory period will be extended, or whether employment will be terminated.

If the introductory employee has not received the above notice by the end of the 90-day period, the employee shall request such notice from the administrator upon which the notice shall be issued within ten (10) days. Untimely communication of this notice does not result in automatic advancement of the employee to regular employee status. Non-issuance or non-compliance to this ten (10) day rule by the administrator will necessitate a formal written explanation to the Human Resources Director.

- B. Transfer of Leave Benefits of a Promoted or Transferred Employee. A regular employee who is on introductory status, due to a new assignment, may continue to use leave benefits previously accrued.
- C. Extension of 90-Day Introductory Period. For good cause, an introductory period may be extended for a period not to exceed an additional ninety (90) calendar days at the discretion of the administrator. For purposes of this section, an introductory period may be extended due to the following:
  - 1. Extended absence of an employee due to medical reasons.
  - 2. The administrator determines that there is insufficient time to thoroughly evaluate the employee's performance.

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3. The administrator determines that additional time is needed to work with the employee who falls slightly below necessary minimum performance standards so that the employee can meet position standards.

D. Background Check. A background check shall be conducted for every person selected for employment with the Judicial Branch by the Human Resources Director. An introductory employee cannot advance to regular employee status until a background check report has been completed.

The Judicial Branch shall designate certain positions sensitive, such as probation officers, or those working with children, vulnerable adults and those involving the handling of money, inventories, or security of buildings or other persons designated by the Human Resources Office. Job-related background checks, which may require fingerprinting of applicants, shall be conducted prior to appointment of a person to a sensitive position.

If the background check cannot be completed until after placement, the results shall be used to determine the employee's suitability for continued employment.

1. Applicants who have been convicted of a felony shall not be eligible for employment.
2. Applicants who have been convicted of a misdemeanor crime involving moral turpitude shall not be eligible for employment.

E. Physical Standards. Prospective employees shall possess the necessary physical standards required for the position. After selection, but within the introductory period, the hiring authority may require a physical examination or certification of good health from a licensed physician to ascertain an individual's ability to perform the minimum duties within the position description.

F. Employment Notice. Approval of regular employee status, extension of introductory period, or termination of employment shall become final upon written notice to the employee by the Human Resources Director.<sup>3</sup>

G. Dismissal. If, during the introductory period, the employee's job performance or conduct is unsatisfactory, the administrator may terminate the employee. The introductory employee shall be given written notification citing the reason(s) for the termination.<sup>4</sup>

H. Request for Review. A terminated introductory employee, within five (5) working days of receipt of the notice of termination, may request in writing a review of the termination by the Human Resources Director. The decision of the Human Resources Director to uphold or reverse the termination shall be final. The Human Resources Director may designate another qualified person to conduct the review.

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<sup>3</sup> The NPEA requires the affected employee to be provided with written notification of the specific reasons for any adverse action at the time of the action. 15 N.N.C. § 604(B)(8) (2005).

<sup>4</sup> See above.

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**II. SHÁDI'ÁÁH, TSOODZIL, NAHATA'Á, DOOTL'IZHII SAAD**

(South, Mt. Taylor/South Mountain, Planning, Turquoise Words)



**Nahat'a** (Planning Things Out): SOUTH – BLUE - TSOODZIL

Purpose. This section of the policy is tied to the cardinal direction of the South. In this stage, you need to plan out your career to help you succeed. Judicial Branch is providing you with the conditions of employment. It is expected by the Judicial Branch that you will learn self-discipline and will resolve any conflicts with your co-workers and/or supervisor using traditional Navajo methods of dispute resolution. These methods are time tested and do not require you to adopt a particular faith. However, the Western World is beginning to acknowledge the adversarial system which does not restore relationships and not the ideal model to resolve problems.

- Nahat'a is needed to place situations into perspective where plans are initiated and developed to follow-through with strategies in resolving situations and plans.
- Nahat'a determines the avenues of resources that can be used to dictate guidance in compiling and placing valuable information into perspective.
- Nahat'a also determines the mindset of an individual in ways to accommodate accumulative background of self and past shortcomings and future treatment plans of one's life.
- Nahat'a helps individuals determine how to better one's self in a personal, professional and traditional teaching through the processes of —T'aaho ajit'eigo T'ei ya.

**Section 12: Performance of Duties**

- A. Every employee shall perform their official duties and responsibilities in a proper and diligent manner.
- B. Every employee shall serve the public in a respectful, professional, courteous and assisting manner at all times.
- C. Every employee shall obtain and maintain current licenses or certificates which are required as a condition of employment.
- D. No employee shall alter, backdate, falsify, destroy, mutilate, or fail to make required entries on any records within the employee's control, except pursuant to a lawful order.
- E. No employee shall give legal advice unless authorized by his or her position description.
- F. No employee shall selectively recommend legal counsel, but may direct inquiries to the Navajo Nation Bar Association.
- G. No employee shall refuse to enforce or otherwise carry out any properly issued directive or court order. No employee shall be required to perform any other duties that may be questionable or inconsistent with established Navajo Nation laws and procedures.

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- H. Every employee shall immediately report violations of the EPP to the appropriate authority within the Judicial Branch.
- I. Employees who are lawyers, advocates, or members of other professional groups are also bound by their respective professional duties, ethics and codes of conduct.

**Section 13: Confidentiality**

- A. No employee shall disclose to any unauthorized person any confidential information acquired in the course of employment or through unauthorized disclosure from another.
- B. Confidential information that is available to specific individuals by reason of statute, court rules or administrative policy shall be released only by persons authorized to do so.
- C. Every employee shall report to the administrator any release of confidential information when the employee reasonably believes that the information released constitutes evidence of a violation of law or unethical conduct. No employee shall be disciplined for such reporting. Any retaliation for such reporting against an employee may constitute cause for disciplinary action.
- D. All media requests for information and interviews shall be referred to the Judicial Branch employee designated by the Chief Justice or his/her designee.
- E. Employees must be very careful when discussing all court matters, whether they are confidential or not. Individuals, who come to Navajo courts, whether on their own or because they are required to do so, usually come under very stressful circumstances. They may be faced with having to deal with very personal, sensitive, embarrassing, or humiliating matters in a public forum. The courts must deal with these matters in a neutral, dignified and objective manner. It is essential that court employees reflect and uphold the dignity of the court. The communication of court matters outside of work is prohibited.

**Section 14: Ex Parte Communication**

Ex parte communication is communication, written or oral, regarding a legal matter between less than all interested parties and/or their legal counsel, and a judge or justice and/or the judicial staff.

- A. No employee shall initiate or repeat ex parte communication from interested parties, legal counsels or witnesses to judges, jury members or any other person, except where permitted by law.
- B. Exempt Communication. The above shall not apply to communication between the judge or justice and such law clerks, attorneys, or other employees whose responsibility is to advise the judge or justice. It also shall not apply to routine communication between judicial staff and legal counsel/Pro se litigants regarding scheduling, filing requirements, and similar matters. Employees shall inform the public of the existence of pro se forms and other resources available to help them with the litigation process.
- C. Penalty. A violation of this Section may result in disciplinary action pursuant to the EPP table of penalties.

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**Section 15: Conflict of Interest**

- A. Every employee shall avoid conflicts of interest in the performance of professional duties.
1. A conflict of interest exists when the employee's objective ability in the performance of his or her job is, or reasonably appears to be, impaired, or when the employee or the employee's immediate family or business would derive financial gain or other benefit as a result of the employee's position within the Judicial Branch.
  2. A conflict of interest also exists when an improper benefit or detriment may result in a personal or economic interest of an employee because of employment within the Judicial Branch.
- B. Prohibited Activities:
1. No employee shall contract with the Judicial Branch, e.g. professional service agreements, etc.
  2. No employee shall receive gratuities or other compensation for representing, assisting, or consulting with parties engaged in transactions or involved in proceedings with the court.
  3. No former employee shall contract or engage in a commercial transaction with the Judicial Branch for one (1) year after terminating employment.
  4. No former employee, who has had a role in a case before the Courts of the Navajo Nation, shall derive any benefit from a party or legal counsel for the party. This period of prohibition shall extend for the longer of the following periods: (1) the case is active, or (2) one year after leaving employment.
  5. No employee shall knowingly employ, advocate, or recommend for employment any member of his or her immediate family or immediate Navajo clan relatives.
  6. No employee shall solicit nor accept any gifts, loan, gratuities, discounts, favors, hospitality, or services under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the employee in the performance of official duties.
    - a) Nothing in this section shall prohibit an employee from accepting a public award for public service.
    - b) Employees shall not receive gifts or donations on behalf of the Judicial Branch and/or the Navajo Nation.
    - c) Nothing in this section shall prohibit an employee from accepting unsolicited personal gifts of food or drink which have a nominal value.
  7. No employee shall use nor permit the use of Judicial Branch facilities for activities unrelated to the business of the courts.
    - a) No part of the Judicial Branch's premises or any portion of working hours shall be used for the purposes of raising or soliciting funds. This shall not include:
      1. Fund raising for an employee group activity in which the sole source of funds or those solicited are Judicial Branch employees;



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2. Vending machines when the proceeds, profits, or commissions are paid to the Navajo Nation;
  3. Individual vendors selling their handmade products.
  4. Solicitation for Justice Day and other court activities approved by the Director of Judicial Administration.
- b) No part of the Judicial Branch's premises or any portion of working hours shall be used for social activities. These shall not include:
1. Justice Day or other informational activities of the courts;
  2. Mock court proceedings;
  3. Reception of visitors;
  4. Potluck or sharing of food solely among employees so long as it is conducted in areas to which the public does not have access.
  5. Use of court premises for approved community conferences and meetings.

**Section 16: Health and Safety**

A. Employee.

1. Safety. Employees have a duty to report to the administrator all unsafe or unhealthy conditions in and around the workplace.
2. Job-Related Illness or Injury. Employees have a duty to report all job-related illnesses or injuries to the administrator within seven (7) days. Employees should fill out all paperwork as soon as possible and absolutely within the statute of limitations for Navajo Nation Workman's Compensation claims.
3. Health and Physical Condition. An employee shall report to the administrator any personal physical condition or illness which may negatively affect the employee's ability to perform his/her minimum duties. The employee must request any reasonable accommodation(s) to adequately perform job duties.
4. When the administrator has reason to believe that an employee's chronic substance abuse or physical or mental health substantially impedes the satisfactory performance of the duties, tasks, and responsibilities assigned to the employee, the employee may be required to get an examination by a licensed physician. The employee shall provide the results of the examination to the administrator. Employees shall submit written waivers of doctor/patient confidentiality as required by the administrator. This waiver is only to be used by the administrator for the limited purpose of speaking with a doctor in order to gain more information concerning:
  - a) The length of time an employee may be absent from work,
  - b) Whether there are special limitations required on an employee's duties,
  - c) The length of time for such limitations,
  - d) Whether reasonable accommodations must be made for an employee.
  - e) This consultation is not to be used to gather information concerning an employee's health problem(s) or for termination of employment purposes.

B. Administrator.

1. Job-Related Illness or Injury. The administrator shall immediately report in writing all job-related illnesses or injuries to the Human Resources Director and the Navajo Nation Worker's Compensation Office. The report shall be faxed in case of an emergency.

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2. Work Environment.

- a) No employee shall be compelled to work where physical conditions present an immediate danger to the employee's physical safety, health, or well-being.
- b) Administrators are responsible for determining whether conditions of travel, a particular assignment, or physical work environment, including office buildings, constitute a potential danger to the safety, health, or well being of personnel and initiating appropriate actions.
- c) In situations affecting the work environment or administrative leave related to office closures, the administrator shall notify the Chief Justice or his/her designee prior to taking any non-emergency action.
- d) Administrators are responsible for establishing standards for:
  - 5. Food and drinks at workstations;
  - 6. Radios, audio players, and other devices; and
  - 7. Appearance of the work area.
- e) Employees are responsible for making appropriate child care arrangements. Except when specifically permitted, employees are not to bring children to work or have their children loitering on Judicial Branch premises after school hours.
- f) The Judicial Branch recognizes the importance of allowing mothers who choose to breast-feed their children the opportunity to continue after returning to work. The employee and administrator shall make the necessary arrangements in conformity with the Navajo Nation Healthy Start Act; 15 NNC, Section 701.

**Section 17: Personal Appearance**

It is the policy of the Judicial Branch that each employee's attire, grooming, and personal hygiene should be appropriate to the work situation.

- A. Employees are expected at all times to present a professional, businesslike image to the public. Acceptable personal appearance, like proper maintenance of work areas, is an ongoing requirement of employment. Employees must be sensitive to the expectation of the public which includes many traditional Dine' who dress conservatively and expect others to dress conservatively. Radical departures from conventional attire and hygiene are not permitted.
- B. Office workers and any employees who have regular contact with the public must comply with the following personal appearance standards:
  - 1. Employees should not wear suggestive attire, worn jeans that have holes, stains or tears, baggy jeans, athletic clothing, shorts, flip-flops, t-shirts, novelty buttons, caps/hats, and similar items of casual attire that do not present a professional appearance.
  - 2. Hair should be clean, combed, and neatly trimmed or arranged.
  - 3. Sideburns, moustaches, and beards should be neatly trimmed.
  - 4. Tattoos, body piercings (other than earrings) and hickeys should not be visible.
  - 5. Strong or offensive perfume, oils, cologne, aftershave or other similar products should not be used.
- C. Bailiffs shall be required to wear standard issued uniforms and footwear.
- D. At its discretion, the Judicial Branch may allow employees to dress in a more casual fashion than is normally required. On these occasions, employees are still expected to present a neat appearance.

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- E. Any employee who does not meet the standards of this policy will be required to take corrective action. The administrator has the discretion to require an employee to leave the premises without pay for the required absence in order to change.
- F. An employee who, after being reminded and/or counseled by an administrator, and continues to dress inappropriately for work, shall be subject to appropriate disciplinary action.

**Section 18: Political Activity**

- A. Each employee retains the right to vote as the employee chooses and is free to make political contributions as a private individual.
- B. No employee shall be a candidate in or hold any political or public office.
- C. No employee shall participate in any political activity.
  - 1. Political activities include:
    - a) Displaying or distributing campaign literature, badges, stickers, signs, or items of political advertising on behalf of any party, committee, agency, or candidate for elective office at the work site;
    - b) Using official authority or position directly or indirectly, to influence or attempt to influence any other employee in the Judicial Branch to become a member of any political organization, support a specific candidate, or to take part in any political activity;
    - c) any political organization, support a specific candidate, or to take part in any political activity;
    - d) Soliciting signatures for political candidates; and
    - e) Soliciting or receiving funds for political purposes.
  - 2. Political activities do not include:
    - a) Voting;
    - b) Attending debates, rallies, forums, etc., for information purposes so long as the employee does not permit himself or herself to be publicly identified as a Judicial Branch employee;
    - c) Signing nominations, recall petitions or legislative initiatives so long as the employee does not permit himself or herself to be publicly identified as a Judicial Branch employee.
- D. Employees shall not use any government property: electronic communication equipment, office machines or vehicle for political purposes.
- E. Employees shall not engage in any political activity while at work.
- F. No employee shall serve as a poll watcher, poll clerk, precinct judge, or other election worker.

**Section 19: Outside Employment**

Outside employment is permissible only:

- A. If it is approved in writing by the administrator and submitted to the Human Resources Director for concurrence and placement in the official personnel file.

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- B. If it is not with an entity that regularly appears in court or conducts business with the Judicial Branch, and it does not require the employee to have frequent contact with legal counsel who regularly appear in the court system; and
- C. If it is capable of being fulfilled outside normal working hours and is not incompatible with the performance of the employee's duties and responsibilities; and
- D. If it does not require or induce the employee to disclose confidential information acquired in the course of and by reason of official duties; and
- E. If it does not compromise the integrity of the Judicial Branch in any fashion.

**Section 20: Navajo and State Driver's Permits and Licenses**

- A. While operating a tribal motor vehicle, employees shall abide by the Navajo Nation Motor Vehicle Operator's Handbook and obey all Navajo Nation traffic laws. When operating a tribal vehicle outside the Navajo Nation, employees must obey all appropriate motor vehicle laws.
- B. Employees shall immediately make a written report to their administrator concerning all traffic citations from any jurisdiction, accidents, or damages incurred to a tribal vehicle during the operation of a tribal vehicle.
- C. Administrator shall immediately notify in writing the Human Resources Director when informed by an employee of a receipt of a traffic violation, traffic accident, or damage to a Navajo Nation vehicle. The administrator shall comply with the reporting requirements of the Navajo Nation Motor Vehicle Operator's Handbook.
- D. Employees should be aware that if their state and/or Navajo Nation driving permit is suspended or terminated, they may be suspended or terminated from employment if driving is a necessary duty of their position description.
- E. Employee must notify their immediate administrator of any suspension, revocation or restrictions of their state driver's license privileges.

**Section 21: Employees Charged with a Crime**

When an employee is charged with a criminal offense, it compromises the public's confidence in the court system and impacts the employee's job performance. The procedure in this section is not punitive or intended as a disciplinary measure pending the disposition of the criminal charges. The intent is to preserve the integrity of the Judicial Branch and allow the employee time to resolve the criminal matter.

- A. Notification – An employee who is arrested or charged with any criminal offense in any jurisdiction shall notify his/her administrator within three (3) calendar days of being arrested or charged.
- B. Suspension of Duties–
  - 1. An employee charged with a Federal or state felony offense shall be suspended and allowed to use accrued paid time off from the date of the charge.
  - 2. An employee charged with a Federal, state or tribal misdemeanor offense may be suspended at the administrator's discretion dependent upon type of work the employee

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performs, and/or when there is reason to believe that the employee's continued presence may endanger the safety or welfare of the public, other employees, and/or Judicial Branch property. The employee may be allowed to use accrued annual leave from the date of the charge.

3. After the exhaustion of accrued annual leave, if the case has not been resolved, the employee shall be placed on leave without pay pending the outcome of the action.
4. If the employee is not convicted or conviction is reversed on appeal, and the employee not otherwise terminated from employment, the suspension may be lifted. Nothing in this section shall prohibit independent disciplinary action against an employee concerning the same conduct related to the charge of a criminal offense if that conduct involved a violation of any of the Employee Policy and Procedures.
5. If the employee is convicted, and if conviction becomes final upon appeal, if any, the employee shall not be compensated for the period of suspension. Conviction includes any plea or finding of guilt, including a plea of no contest.

- C. Termination – The administrator may determine that the outcome of a criminal proceeding requires termination of the employee without further investigation.

**Section 22: Discrimination within the Workplace**

All employees of the Judicial Branch must treat other employees, all parties who appear before the courts, and the public without discrimination or unequal treatment. It is not permitted to mistreat anyone by words or conduct, on the basis of race, religion, national origin, gender, sexual orientation, disability, age, profession, socio-economic status, political affiliation, or clan relationship.

**Section 23: Sexual Harassment**

The purpose of this section is to prohibit sexual harassment and to provide a process for reporting investigating and resolving acts or conduct of a sexually harassing nature. Sexual harassment is unacceptable and will not be tolerated in the workplace or in other work-related settings, such as business trips and business-related social events.

All Judicial Branch personnel, including judges and justices, are included in this policy. Sexual harassment complaints against those individuals who conduct business with the Judicial Branch, including but not limited to legal counsels, peacemakers, and litigants, shall be handled by other appropriate processes.

- A. Sexual Harassment is any unsolicited and/or unwelcomed sexual advance, overture, or conduct either verbal or physical, which has the purpose or effect of interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment. Sexual harassment of non-employees or members of the public during the course of performing job duties is also prohibited. Sexual harassment includes, but is not limited to:
1. Repeated sexual flirtations, gestures, advances, or demands for sexual favors;
  2. Continued or repeated verbal abuse of a sexual nature, sexually-related comments and joking, degrading comments about an employee's appearance, or the display of sexually-suggestive objects.
- B. Complaint Procedure.
1. Individuals who believe they have been or are being sexually harassed are encouraged to firmly and promptly inform the offender that his or her behavior is not welcomed.

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However, where circumstances make notification uncomfortable or ineffective in altering the offender's behavior, a complaint should be reported as follows:

- a) If the alleged offender is an employee, the employee or public will notify the administrator in writing or by any electronic means to initiate an investigation.
  - b) If the alleged offender is the administrator, the complaint should be provided to a judge or the next level of supervisory authority or Human Resources Director.
  - c) If the alleged offender is a judge or justice, the complaint shall be processed pursuant to Judiciary Committee of the Navajo Nation Council Resolution JCJA-02-03, "Approving and Adopting the Employee's Policies and Procedures for Navajo Nation Judges and Justices".
2. Timely Reporting of Complaints. Employees are encouraged to report sexual harassment as soon as possible. However, late reporting will not preclude a judicial district, office, or program from taking action in accordance with this section.
  3. Retaliation Prohibited. There shall be no retaliation against an individual for reporting sexual harassment. Retaliation is a serious violation of this section and should be reported immediately. Any employee found to have retaliated against a complainant will be subject to disciplinary action.
  4. Confidentiality. Any investigation shall be conducted in a confidential manner to protect the privacy of the individuals involved. Confidentiality will be maintained throughout the investigation to the extent practical and appropriate under the circumstances.

C. Investigating the Complaint.

1. Investigation Process. The administrator shall notify the Human Resources Director who will appoint an investigator or investigators. The investigation shall commence within 72 hours of the notification. In order to maintain the integrity of the investigation, employees may be placed on leave consistent with Section 32(D) of the EPP. The investigator(s) will thoroughly investigate the complaint. The investigator(s) shall:
  - a) Confirm the name and position of the complainant.
  - b) Identify the alleged harasser.
  - c) Thoroughly ascertain, in a non-judgmental manner, all facts that explain what happened.
  - d) Determine the frequency and type of all alleged harassment. If possible, obtain dates and locations where the alleged harassment occurred.
  - e) Identify and interview any witnesses.
  - f) Ask the complainant how he or she responded to the alleged harassment.
  - g) Determine whether the complainant consulted anyone else about the alleged harassment.
  - h) Determine the relationship, degree of control, and amount of voluntary or involuntary interaction between the alleged harasser and the complainant.
  - i) Determine whether the alleged harasser has made or carried out any threats or promises directed at the complainant.
  - j) Determine if the complainant knows of or suspects that there are other individuals who have been harassed by the alleged harasser.
  - k) Obtain any other information pertinent to the investigation.

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2. Completing the Investigation.
  - a) Upon completing the investigation, the investigator(s) shall submit in writing findings, conclusions and recommendations to the Human Resources Director. The investigation shall be completed in 10 business days, unless a status report justifying a longer time period is submitted to the Human Resources Director. Any subsequent changes of the written report must be agreed upon by all investigators.
  - b) Finding of No Occurrence of Sexual Harassment. If it is determined that no sexual harassment has occurred, this finding will be communicated to the complainant and alleged harasser.
  - c) Finding of Sexual Harassment. A finding of sexual harassment will subject the harasser to appropriate disciplinary procedures as indicated in Section 43 and Table of Penalties of the EPP.
  - d) Finding of False Accusation. If an investigation results in a finding that the complainant falsely accused another of sexual harassment, knowingly, recklessly, or in a malicious manner, the complainant will be subject to disciplinary action as indicated in Section 43 and Table of Penalties of the EPP.

**Section 24: Prohibiting Workplace Violence**

- A. Workplace violence is any behavior that is sufficiently severe, offensive, or intimidating to cause an individual to reasonably fear for his or her safety or property. Any behavior that is offensive, threatening, or intimidating will not be tolerated. This includes communication via cell phones, computers, and any other electronic devices used inappropriately at work. Violent behavior on the job includes, but is not limited to:
  1. Any conduct that causes harm or injury to another person;
  2. Threatening physical or aggressive contact toward another person;
  3. Intentional destruction or threat of destruction to government or private property;
  4. Expressing intent to cause physical harm or emotional duress;
  5. Creating a hostile work environment by unwelcome words, veiled threats, intimidation, actions, or physical contact, even if such action does not result in physical harm;
  6. Surveillance or stalking of an employee outside the workplace; or
  7. Communication of suicidal or homicidal thoughts.
- B. Violence or the threat of violence has no place in the Judicial Branch. Employees are expected to treat one another and the public with mutual respect consistent with K'e. Any person, including employees, who acts in a violent or threatening manner, either verbal or physical in nature, will be removed from the premises as quickly as safety permits.
- C. In order to maintain workplace safety and to maintain the integrity of the investigation, employees may be placed on leave consistent with Section 31(D) of the EPP.
- D. Any employee engaging in behavior as described in this Section of the EPP is subject to suspension or termination. An employee may be immediately suspended and barred from a Judicial Branch building pending the outcome of an investigation. If there is an imminent threat to safety, the police or fire department should be contacted immediately.
- E. Threats from the Public. If there is an imminent threat to safety, the police or fire department should be contacted immediately. By order of a judge, a member of the public may be barred from any Judicial Branch buildings.

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- F. Administrators shall immediately notify the Human Resources Director when any incident of work place violence occurs for records keeping purposes.

**Section 25: Methods for Restoring Harmony in the Workplace  
Naanish haz'áadi andahwiizt'i' ééí na'ak'i yéiltili' go anáhoot'i' bee hasht'e doolníl**

Harmony in the workplace is important for many reasons. It helps to produce more work production, a great work environment, and a desire to remain with the Judicial Branch. These are negatively impacted when there is disharmony. Therefore, in an effort to ensure that harmony is restored as soon as possible, these methods are available to all employees that have a complaint against their administrator or another employee.

This Section establishes the use of three informal dispute resolution methods to address employee complaints: (1) *Baayati'*; (2) Mediation; and (3) Peacemaking. The sessions held pursuant to any of these methods shall be during the workday. All of the methods are considered informal because it is not adversarial. There are little or no procedural rules and the goal of each method is to help all parties resolve the dispute themselves.

In the adversarial system, there are strict rules of procedure with all parties presenting their case and a Judge or Hearing Panel deciding a winner and a loser. This rarely restores harmony for all parties.

The Judicial Branch encourages all employees to use one or all of the informal dispute resolution methods described in this Section. You may feel your complaint is minor but if something bothers you, it will affect your work. Often times, a minor problem will lead to a major problem later. Therefore, you should inform your administrator as soon as possible that you wish to use one of the methods described below.

In addition, these methods are also available to employees who want to address a disciplinary action that has been assessed against them. In such cases, these methods will toll (suspend the time requirements) the grievance filing requirements stated in Section 44(D) but the employee must inform the administrator prior to the grievance filing deadline that he/she wishes to use one of the methods below. The administrator shall record the date and time of the complaint to begin the tolling period. If, at the conclusion of the informal session, the employee still wishes to file a formal grievance, he/she can. The tolled time to file a formal grievance will resume at the conclusion of the informal session(s).

- A. *Baayati'* (Talking Things Out). This method of dispute resolution is based on the traditional practices of the Dine. Elders stress *K'e* because good relations are maintained by being respectful to your relatives and to all living things. With *K'e* and use of *Nitsahakees*, *Nahat'a*, *Iina*, and *Sihasin*, these help disputing parties communicate respectfully and effectively. Through *Nitsahakees*, the parties become aware of a problem or dispute. With *Nahat'a*, the parties develop plans to resolve all issues. *Iina* reminds all parties of their maturity and experience in addressing disputes. With *Sihasin*, parties are hopeful for a successful outcome. When success is achieved, all parties walk in beauty before them, behind them, below them and above them. This is how harmony is restored.
1. Beginning *Baayat'i*. The affected employee shall inform the administrator of the complaint and desire to use *Baayat'i*. In the event the administrator is the other party, the employee shall inform a Judge. The administrator (or judge) will then bring the parties together at their earliest convenience to inform all parties of the complaint and to schedule a *Baayat'i* session. Other potential participants should also be identified at this time.



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2. Baayat' i Session. If the main parties are familiar with both conducting *baayat' i* and the traditional principles of the Dine, the parties are encouraged to hold these sessions on their own. If one or both main parties are not familiar, a third party who is familiar with traditional principles and traditional dispute resolution may serve as an advisor to both parties. This process is different from Peacemaking because the Navajo Peacemaker Guidelines are not used and the advising third party is not required to be a Peacemaker.
  3. Resolution. Traditional resolutions vary greatly. Some may include simple apologies, clarifications, explanations, *hazaad jidisingo* (sacred word or agreement), or *nalyeeh* (compensation). It is not unusual to find no party at fault. However, in all resolutions, there is an understanding by all parties that the matter has been resolved. For those matters left unresolved, another informal dispute resolution method may be used.
  4. Notice of Outcome. The party who initiated the complaint shall inform the administrator (or judge) in writing of the outcome. The writing shall be brief and shall only state that he/she initiated a *baayat' i* session and the matter was fully or partially resolved. The writing shall not specify the other party or the substance of the dispute. At the conclusion of the session, the party who initiated the complaint shall submit a Notice of Employee Session Outcome Form (Appendix B) to the administrator.
- B. Mediation. Mediation is facilitated by a mediator who assists the parties to resolve matters themselves by asking questions, brainstorming multiple options, keeping the parties focused, and pointing out relevant information that the parties have not discussed. The mediator reminds the parties that mediation is unlike the adversarial process and that he/she will not be making any final decisions for the parties. Instead, a mediator places the responsibility on the parties for developing a solution. Mediation is different from a *baayat' i* session because traditional principles of the Dine are not required to be followed. However, the use of traditional principles is not prohibited.
1. Beginning Mediation. The employee shall inform the supervisor of the complaint in writing and desire to use mediation. In the event the administrator is the other party, the employee shall inform a judge. The administrator (or judge) will then bring the parties together at their earliest convenience to inform all parties of the complaint and to schedule a mediation session.
  2. Mediator. A mediator shall be a neutral party acceptable to both parties. If a mediator cannot be agreed on, a party may submit a request to the Human Resources Director to have a mediator appointed. The mediator shall have knowledge or experience in conducting mediation.
  3. Mediation Session. At the beginning, the mediator sets the grounds rules for the session which may include advising both parties to be respectful and not to interrupt or display negative facial expressions to the other party. The mediator also briefly describes what mediation is and its process. The employee who initiated the mediation shall be given the first opportunity to speak. The mediator and the other party shall listen without interruption. When the employee is finished, the other party shall be given the next opportunity to speak. The mediator and the first speaker shall listen without interruption. When the second party is finished speaking, the mediator may provide comments, ask questions, brainstorm options, and perform any strategy to help the parties resolve the issue(s) themselves.

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4. Outcome. When the session is successful, the mediator shall draft a mediation agreement/ understanding. The writing shall be reviewed and signed by both parties. If mediation was not successful for all or part of the matter, the parties may use one of the other informal dispute resolution methods.
  5. Notice of Outcome. The party who initiated the complaint shall inform the administrator (or judge) in writing of the outcome. The writing shall be brief and shall only state that he/she initiated mediation and the matter was fully or partially resolved. The writing shall not specify the other party or the substance of the dispute. At the conclusion of the session, the party who initiated the complaint shall submit Notice of Employee Session Outcome (Appendix B) to the administrator.
- C. Peacemaking. The Peacemaking Program is available for employee complaints. This system is governed by the policies and procedures set forth in the Peacemaking Guidelines. Therefore, employees should consult the Peacemaking Guidelines for additional information.
1. Beginning Peacemaking. The employee shall inform the supervisor of the complaint in writing and desire to use Peacemaking. In the event the administrator is the other party, the employee shall inform a Judge. The employee will then submit a complaint to the Peacemaker Liaison who will process the complaint under the Peacemaking Guidelines.
  2. Peacemaker Fee. The employee filing the complaint shall be responsible for any Peacemaker Program fees.
  3. Notice of Outcome. The party who initiated the complaint shall inform the administrator (or judge) in writing of the outcome, the complaint shall submit Notice of Employee Session Outcome (Appendix B). The writing shall be brief and shall only state that he/she initiated a Peacemaking Session and the matter was fully or partially resolved. The writing shall not specify the other party or the substance of the dispute.

**III. E'E'AAH, DOOK'O'OOSLÍID, IINÁ, DIICHILÍ SAAD**

(West, San Francisco Peaks/West Mountain, Life, Abalone Words)



**Iina** (Life Journey & Implementation): WEST- YELLOW- DOOK'O'OOSLIID

Purpose. This Section of the policy is tied to the cardinal direction of the West. In this stage, you need to implement your career plan.

- Implement the processes of Nitsahakees and its attributes to resolve problem or a situation.
- Implement the processes of —yini dilyingo (put in perspective to have pity on self) baantsahakees doo baanyati'.
- Implement the processes of —Yini Dilyingo, Na (fairness) doo Nabik'iyati'go (talk things thru)
- Implement the processes of K'e as the concentration and focal point of fairness and equality.
- Implement the importance and values of self, family, home, keyah, community and work.
- Implement the importance and values of professionalism, professional growth and development, traditional respect and appreciation for self and tour of duty.

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**Section 26: Employee Work Assignments**

An employee's duties shall conform to the position description. In addition, temporary work duties may be assigned for a specific purpose and specific time period.

**Section 27: Hours**

- A. Standard Work Week. The standard work week is five (5) days - Monday through Friday. Standard hours of work for all employees are forty (40) hours per week.
- B. Business Hours. The courts and offices shall be open to the public Monday through Friday from 8:00 a.m. to 5:00 p.m., except for Judicial Branch holidays. Courts or offices may extend business hours to serve the public.
- C. Breaks. Each employee shall take one (1) hour for lunch, and shall take one fifteen (15) minute break in the morning and one fifteen (15) minute break in the afternoon. Lunch and breaks shall be scheduled by the administrator so that the schedule does not interfere with or hamper the operation(s) of the court or office. Employees shall not accumulate break time or lunch time.
- D. Flextime. Flextime shall be used only for special project(s) or unique circumstances. Flextime plans, consistent with sections (A), (B), and (C) of this section, shall be approved by the administrator prior to implementation. The plan shall indicate:
  - 1. The employee's name and position;
  - 2. The justification for the plan in terms of benefit to the Judicial Branch, the employee or the public;
  - 3. The proposed work days and hours will meet the forty (40) hour work week requirement;
  - 4. The feasibility of the plan for supervision and convenience of the court or office;
  - 5. Any particular supervisory situations to be addressed; and
  - 6. The length of time for which flextime is approved.

**Section 28: Overtime**

Purpose. It is the policy of the Judicial Branch to authorize overtime when necessary to meet essential operating needs of the Judicial Branch, subject to the availability of funds and contract requirements.

- A. Prior Authorization. No overtime work is permitted without prior written authorization obtained by the administrator.
- B. Overtime. Only overtime eligible employees shall be compensated for hours actually worked which exceed forty (40) hours per week. For purposes of computing overtime, the 40-hour limit is based upon hours actually worked during the week. Paid leave is not counted.
- C. Overtime Eligible Employees. All positions will be classified as either overtime eligible or not overtime eligible to determine overtime compensation.
  - 1. Not Overtime Eligible (Exempt): Executive staff, administrators and staff attorneys are not eligible for overtime compensation.
  - 2. Overtime Eligible (Non-Exempt): Non-supervisory and Judicial office staff positions are eligible for overtime compensation.

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3. The Human Resources Director is responsible for determining the overtime eligibility of each position.
- D. Compensation Rate. Subject to the availability of funds, compensation for overtime shall be at the rate of one and one-half times the regular hourly rate for hours actually worked in excess of forty (40) hours per week.
- E. Compensation Option. Prior to working overtime, the employee shall agree to the type of compensation to be earned by the employee, either pay at time and one-half, compensatory time off, or a combination of the two, as long as the premium pay principle of time and one-half is maintained for hours actually worked in excess of forty (40) hours.
- F. Employee Option. An employee has an option to choose whether or not to work beyond their regularly assigned work hours. An employee may not be subject to retaliation for a refusal to work overtime. The administrator's sole remedy is to assign the overtime to another employee.
- G. Accumulation and Use of Accumulated Compensatory Time.
  1. Use of compensatory time will be approved and granted after its accrual and not in advance of accrual. Compensatory Time is to be charged in one-hour increments instead of fractions less than an hour.
  2. Prior to compensatory leave, the employee shall submit a written request to use compensatory time prior to the administrator for approval. Approval shall be based upon the needs of the court or office.
  3. Employees may accrue no more than forty (40) hours of compensatory time and shall utilize within thirty (30) days from date of accrual.
  4. If an employee is transferred or leaves employment for any reason, the employee will be paid for compensatory time earned. Unused compensatory time shall be documented.

**Section 29: Annual Leave**

Annual leave is an employee benefit that when earned becomes a right. However the use of annual leave is granted as a privilege subject to the workload of a court, office or program. All annual leave should be requested at least three (3) days before the intended time of leave.

The administrator may require the employee requesting leave to designate another person to cover essential duties. If a three (3) day notice is not possible, provide as much notice as can be given so that work assignments are not interrupted.

The requested leave is not to be taken until your administrator approves the request. Simply submitting the leave form does not mean that the request is approved. If you do not have accrued leave for the absence period, time away from work will have to be leave without pay. Leave taken without prior approval and time away from work is leave without pay and subject to disciplinary action.

If employee is not able to submit a leave request form before leave is taken, an employee shall contact his or her administrator as soon as possible to request verbal approval of the leave request. Employees should not call another employee to advise that you are taking leave. As soon as possible, but no later than the morning of the next workday, employee shall submit the leave report form for approval.

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A. Eligibility.

1. Regular full-time and eligible regular part-time employees shall earn and accrue annual leave.
2. Regular part-time employees who work less than twenty (20) hours per week are not eligible to accrue annual leave.
3. Temporary employees are not eligible to accrue annual leave.
4. Introductory employees shall earn annual leave but cannot use accrued annual leave.
5. Employees who have been transferred or promoted may use accrued annual leave in accordance with Section 11 (B) of the EPP.

B. Annual Leave Accumulation. Each consecutive year of service in the Judicial Branch shall be counted in determining years of service for the accrual of annual leave.

1. A year of service shall be deemed completed on the anniversary date of employment (i.e., one year from the date of initial employment).
2. Employees shall accumulate annual leave during periods of leave with pay. Leave accumulated during such periods shall be forfeited if employees fail to return to work.
3. Employees on leave without pay shall not accumulate annual leave.
4. Forfeiture of accrued annual leave as a disciplinary action shall not be authorized.
5. Eligible employees may carry over an unlimited number of unused annual leave hours from leave year to leave year.

C. Accrual Rate.

1. Regular full-time employees will accrue annual leave at the following rates per pay period:

<u>Years of Service</u>	<u>(Non-Exempt) Overtime eligible</u>	<u>(Exempt) Not Overtime eligible</u>
Less than 3 years	4 hours	6 hours
3(+) years to 8 years	6 hours	8 hours
More than 8 years	8 hours	10 hours

2. In the case of regular part-time employees, annual leave shall be accrued in proportion to hours worked, based upon the above schedule.
3. A Judicial Branch employee who accepts another position within the Judicial Branch shall retain his or her years of service for the purpose of calculating annual leave accrual.

D. Use of Annual Leave. Use of annual leave will be approved and granted after its accrual and not in advance of accrual. Leave is to be charged in one-hour increments instead of fractions less than an hour.

E. New Employee Introductory Period. New employees can earn and accrue annual leave but shall not use accrued annual leave until after they have successfully completed his or her introductory period and have been placed on regular status through the processing of official personnel action forms. Accrued leave earned during an introductory period will not be paid if the introductory employee is terminated prior to full time employment. This will not affect accrued leave balances transferred into new assignments.

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- F. Extension of Sick Leave. Upon exhaustion of accrued sick leave, annual leave may be approved
- G. Mandatory Leave. A minimum of eighty (80) hours of accrued annual leave must be used each year. It is the administrator's responsibility to ensure that these provisions are met.
- H. Change of Employment Status. A regular full-time or regular part-time employee whose employment status has changed to another position in which he or she will not be eligible to accrue annual leave will be paid for his or her accrued annual leave to date of reassignment.
- I. Change of Funding Source. An employee whose employment status has changed to another position funded by a different funding source within the Judicial Branch will not be eligible to transfer his or her accrued annual leave and shall be paid for the accrued annual leave, unless the program receiving the employee agrees to accept the liability for the accrued annual leave. Accepting program officials must ensure that acceptance of liability for accrued annual leave is in accordance with cost principles that apply to the respective grant or contract. The administrator shall not accept liability for accrued annual leave from an entity outside the Judicial Branch.
- J. Annual Leave Payout. Upon separation from employment with the Judicial Branch, accrued annual leave will be paid in full at the employee's current rate of compensation at or near in time to the final regular pay check, if all Navajo Nation property has been returned.

**Section 30: Sick Leave**

Sick leave is authorized time off from work granted an eligible employee due to: his/her own illness, injury, or disability or that of a spouse, children, or parents. This includes but is not limited to incapacitating, contagious, or chronic illness, disability caused by pregnancy, childbirth or related medical circumstances, illness or injury that requires examination, treatment or visits to a licensed practitioner, medicine man or health-related counselor. Employees referred by EAP for treatment, counseling or to other resources may also be eligible for sick leave.

- A. Eligibility.
  - 1. Regular full-time and eligible regular part-time employees shall earn and accrue sick leave.
  - 2. Temporary and regular part-time employees who work less than twenty (20) hours per week are not eligible to accrue sick leave.
  - 3. Introductory employees shall earn sick leave but cannot use accrued sick leave until they have obtained regular status.
  - 4. Employees who have been transferred or promoted may use accrued sick leave in accordance with Section 11 (B) of the EPP.
- B. Sick Leave Accumulation. Each consecutive year of service in the Judicial Branch shall be counted in determining years of service for the accrual of sick leave.
  - 1. A year of service shall be deemed completed on the anniversary date of employment (i.e., one year from the date of initial employment).
  - 2. Employees shall accumulate sick leave during periods of leave with pay. Leave accumulated during such periods shall be forfeited if employees fail to return to work.
  - 3. Employees on leave without pay shall not accumulate sick leave.

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C. Accrual Rate.

1. Regular full-time employees will accrue sick leave at the following rates per pay period:

<u>Years of Service</u>	<u>(Non-Exempt) Overtime eligible</u>	<u>(Exempt) Not Overtime eligible</u>
Less than 3 years	4 hours	6 hours
3(+) years to 8 years	6 hours	8 hours
More than 8 years	8 hours	10 hours

2. In the case of regular part-time employees, sick leave shall be accrued in proportion to hours worked, based upon the above schedule.
3. A Judicial Branch employee who accepts another position within the Judicial Branch shall retain his or her years of service for the purpose of calculating sick leave accrual.

- D. Use of Sick Leave. Use of sick leave will be approved and granted after its accrual and not in advance of accrual. Leave is to be charged in one-hour increments instead of fractions less than an hour.

E. Physician & Traditional Healer Verification

1. An employee on sick leave for three (3) days or more shall provide a statement from a physician or practitioner on the Native Traditional Healer Verification Form (Appendix C). Failure to provide the required statement shall result in a change of leave status to leave without pay and/or disciplinary action.
2. Prior to returning to work, an employee who uses his or her sick leave for more than ten (10) consecutive work days shall provide advance notice or a statement from his or her attending physician indicating that he or she is fit to return to work.
3. If an employee intends to utilize their sick leave for 10 or more days, he or she will provide advance notice to the administrator.
4. Anytime there is a question that an employee's physical or mental health is at risk or is preventing the employee from performing his or her duties, the administrator may direct the employee to provide a physician's statement on the employee's ability to continue employment in the position hired.

The employee shall submit a written waiver of doctor-patient confidentiality for the supervisor to learn how the employee's condition could affect the employee's work. The waiver is limited to information concerning the effects of the employee's condition on the ability to perform the necessary tasks of the employee's position description.

All medical information will be maintained in strict confidence and shared only with supervisory authorities who have a need to know.

F. Extended Sick Leave Without Pay.

1. Accrued sick and annual leave benefits must be used prior to commencement of the extended sick leave without pay.
2. Extended sick leave, not to exceed one (1) continuous year when combined with paid, unpaid, or annual leave, will be granted to regular full-time and regular part-time employees.
3. No annual or sick leave hours will be accrued after accrued leave is exhausted.

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4. The employee on approved extended sick leave will not be eligible for holiday pay.
  5. An employee's failure to show up for three consecutive work days following his or her release by the attending physician or upon expiration of the extended sick leave, whichever occurs first, will be deemed an abandonment of employment.
  6. Employees are encouraged to seek benefit options for short term disability benefits under the Navajo Nation's Employee Benefits Program.
- G. Carryover. Eligible employees may carry over an unlimited number of unused sick leave hours from calendar year to calendar year.
- H. No Sick Leave Payout. No payout of unused sick leave will be made upon resignation, lay off / reduction in force, or termination of employment with the Judicial Branch.
- I. Donation of Sick Leave. It is the policy of the Judicial Branch of the Navajo Nation that eligibility for donation of sick leave hours will be based on the following requirements.
1. All accrued annual and sick leave is exhausted;
  2. An employee may request and receive only the amount of hours necessary to fulfill unmet need for sick leave as determine by medical necessity. No employee shall be donated sick leave in excess of the requested amount;
  3. An employee may donate up to 40 hours of accumulated sick leave per individual, within a calendar year, to another Judicial Branch employee for justifiable reasons with the approval by the Human Resources Director.
  4. The donation of sick leave must comply with existing policy and regulation. No donation shall be made which will result in the donating employee retaining less than 120 hours of accumulated sick leave.

**Section 31: Other Leave**

- A. Military Leave.
1. Military Training.
    - a) A regular status employee who is ordered to participate in field training or other activities in any branch of the Armed Forces of the United States or the National Guard shall be granted a leave of absence with pay not to exceed a period of fifteen (15) working days in any calendar year.
    - b) The employee shall be entitled to receive military training leave pay only for employee's regularly scheduled work days during the military training.
    - c) Leave of absence for military training in excess of the fifteen (15) working days in any calendar year shall be charged against the employee's accrued annual leave or placed on leave without pay, whichever is applicable.
    - d) Employees requesting a leave of absence for military training must submit a copy of their military orders.
    - e) Upon return from leave of absence for military training, the employee is entitled to return to the position occupied prior to the beginning of the leave.
    - f) While on leave of absence for military training, the employee continues to accrue sick and annual leave at employee's regular rate.
  2. Military Honors Detail.
    - b) A regular status employee who is an honorably discharged veteran will be granted paid leave to perform Military Honors Detail during the work week.



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- c) Employee participation in the Military Honors Detail must acquire written authorization from the Official Department of Armed Services to verify employee's participation in the Military Honors Detail.
- d) An employee shall only be compensated with paid leave by the Judicial Branch and shall not accept other compensation.
- e) An employee may accept reimbursements for meals, mileage, lodging, etc. Any non-expense fees or compensation received shall be turned over to the Judicial Branch.
- f) Employees who are detailed to Military Honors Detail must provide proof of participation.

3. Employees Ordered Into Active Service.

- 1. A regular status employee who is ordered into active service in the United States Armed Forces and the National Guard shall be granted military leave without pay.
- 2. A regular status employee's application for military leave must be supported by a military order issued by the United States Armed Forces or the National Guard.
- 3. An employee granted military leave shall be entitled to return to the same or equivalent position. The employee must return to employment within ninety (90) days after the end of active service; otherwise, employee will be considered to have abandoned the position.
- 4. Annual leave and sick leave will not accrue during periods of military leave without pay.
- 5. An employee ordered into active service will not be allowed annual leave payout.

4. Employees Enlisting in Military Service. A regular status employee who voluntarily enlists into active duty in the United States Armed Forces shall be entitled to reemployment rights pursuant to the Uniform Services Employment and Reemployment Rights Act.

B. Bereavement Leave. An employee may be granted up to five (5) consecutive work days of paid administrative leave for purposes of bereavement as approved by the administrator, thereafter annual leave will be applied if employee requests for time off with approval of the administrator. The Judicial Branch understands that additional time may be needed by the employee. Employees may take additional annual leave as necessary with the approval of the administrator. Bereavement leave may be used only for the following: wife, husband, child, stepchild, foster child, parent, grandchild, grandparent, brother, sister, half-brother, or half-sister.

C. Administrative Leave. Administrative leave must be approved by the Chief Justice or his/her designee.

- 1. Paid emergency leave will be granted for a situation declared by the Chief Justice or his/her designee that an emergency, disaster, or grief exists, or declared by an administrator at the judicial district as described by Section 16 (B) (2).
  - a) Employees who are otherwise absent during a period covered by the emergency declaration are not eligible for paid administrative leave.
  - b) Employees on annual or sick leave during the period covered by the emergency declaration shall remain on the same status and will not have leave changed to administrative leave.
  - c) Employees who are on training or travel and are not affected by the emergency situation during the period covered by the emergency declaration will not be granted administrative leave.

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2. Non-emergency paid administrative leave declared by the Chief Justice or his/her designee will be applicable to all individuals, including those on approved leave, training, or travel. Only the Chief Justice or his/her designee may declare administrative paid leave for non-emergency situations.

D. Investigatory Leave.

1. An employee may be placed upon investigatory leave at the discretion of the administrator with the approval of the Chief Justice or his/her designee. Investigatory leave is when an employee is suspended from work during an investigation of alleged wrongdoing.
2. Paid investigatory leave for a non-criminal offense shall not exceed twenty (20) work days.
3. Investigatory leave may be paid or unpaid.

E. Time off for Voting.

1. Employees who are registered voters may request paid voting leave with the approval of the administrator for the purpose of voting, if employee has not already voted.
  - a) Employees traveling fifteen (15) miles or less to their polling site will be authorized one (1) hour voting leave.
  - b) Employees traveling sixteen (16) to forty-nine (49) miles to their polling site will be authorized two (2) hours voting leave.
  - c) Employees traveling beyond fifty (50) miles to their polling site will be authorized four (4) hours voting leave.
2. Employees required to vote at a poll remote from their workstations may request an extension of the four-hour limit. Any extension of time granted in excess of four (4) hours will be charged to annual leave.

F. Jury or Witness Duty. An employee who is summoned to jury duty or subpoenaed to court as a witness shall be granted leave with pay. An employee may accept reimbursements for meals, mileage, lodging, etc. Any non-expense fees or compensation received shall be turned over to the Judicial Branch.

G. Special Judicial Assignments. An employee who is assigned to perform a service that is beneficial to the Judicial Branch shall be granted leave with pay. An employee may accept reimbursements for meals, mileage, lodging, etc. Any non-expense fees or compensation received shall be turned over to the Judicial Branch.

H. Educational Leave. It is the policy of the Judicial Branch to encourage formal and traditional education and the attainment of college degrees, certificates and/or license(s) for all of its employees. All leave shall be approved by the appropriate administrator.

1. The purpose of educational leave is to enhance an employee's job performance and therefore must be job related. All requests shall be made on the Educational Leave Request form, Appendix D.
2. Educational leave shall be without pay unless the administrator and employee agree that annual leave may be used.
3. Upon completion of educational leave, the employee shall be entitled and immediately returned to his or her position.

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- I. Training Requests. Employees are encouraged to participate in job related training to enhance job performance, develop and strengthen skills, and to keep current on specific developments and trends. The administrator in coordination with the Human Resources Director shall be responsible for monitoring and administering training activities.
- J. Family and Medical Leave. Family and medical leave of absence is approved unpaid leave available to eligible employees for up to six (6) months per year under particular circumstances that are critical to the life of a family.
1. Family and medical leave may be taken only in the following situations:
    - a) upon the birth of the employee's child;
    - b) upon the placement of a child with the employee for adoption or foster care;
    - c) when the employee is needed to care for his/her child, spouse, or parent who has a serious health condition; or
    - d) when the employee is unable to perform the functions of his/her position because of a serious health condition.
  2. Limitations.
    - a) The first three (3) months of leave are nondiscretionary; if the leave is requested consistent with these policies, the administrator must approve the leave.
    - b) The second three (3) month period is discretionary. The administrator has the authority to approve/disapprove the leave. Reason(s) for the additional leave requested must meet the criteria herein and be based on 1, a-d above.
  3. Eligibility. Regular employees who have been employed for one (1) year are eligible for family and medical leave.
  4. Basic Regulations and Conditions.
    - a) Employees are required to submit medical certification to support a claim for leave for an employee's own serious health condition or to care for a seriously ill child, spouse or parent.
    - b) When the need for leave is foreseeable, such as the birth or adoption of a child, or planned medical treatment, the employee must provide notice as far in advance as practicable, and make efforts to schedule leave so as not to disrupt branch operations.
    - c) In cases of illness, the employee will be required to report periodically to the administrator on his/her leave status and intention to return to work. A medical certification is required to resume work.
    - d) Upon return from family and medical leave, an employee shall return to the same position.
    - e) During the employee's absence, his/her position may be filled on a temporary basis.
    - f) An employee's failure to return to work after the duration of approved family and medical leave and any other authorized leave shall be deemed abandonment.
  5. Status of Employee Benefits During Leave of Absence.
    - a) Any employee who is granted an approved leave of absence under this policy shall provide for the retention of group insurance coverage by arranging to pay his/her premium contributions during the period of unpaid absence.

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- b) An employee will not lose service credit with the Judicial Branch of the Navajo Nation as a result of the family and medical leave, but he/she will not accrue annual or sick leave and is not eligible for paid holidays.

**Section 32: Leave Responsibility and Scheduling**

- A. Scheduling. Scheduling of all leave shall be in consultation with and approval of the administrator prior to use of the leave.
- B. Two unauthorized absences may result in immediate suspension.
- C. Leave Request Forms. All leaves must be requested by the employee in writing on the official Employee's Leave Report form. The form must be signed by the administrator prior to use of the leave.
- D. Records.
  - 1. Accurate documentation and maintenance of leave records for all employees shall be the responsibility of the administrator on forms prescribed by the Human Resources Director.
  - 2. Copies of all employee leave records shall be forwarded to the Human Resources Director.
- E. Abandonment of Employment. An employee shall be deemed to have abandoned employment if he or she is absent from work without administrator approval for three (3) consecutive working days, unless physically or mentally unable to do so.

**Section 33: Holidays**

- A. Holidays for Judicial Branch employees shall be the following:

1. New Year's Day	January 1
2. Martin Luther King Day	Third Monday in January
3. President's Day	Third Monday in February
4. Navajo Nation Sovereignty Day	Fourth Monday in April
5. Memorial Day	Last Monday in May
6. Navajo Nation Memorial Day	June 1
7. Independence Day	July 4
8. Code Talker Day	August 14
9. Labor Day	First Monday in September
10. Veteran's Day	November 11
11. Thanksgiving Day	Fourth Thursday in November
12. Navajo Nation Family Day	Friday following Thanksgiving Day
13. Christmas Day	December 25
- B. The Chief Justice may declare four (4) additional holidays per calendar year pursuant to 7 N.N.C. § 371 (2003).
- C. Holidays which occur on work days during the pay period shall be counted as work days. If a holiday falls on a Saturday, the preceding Friday shall be taken as the holiday. If a holiday falls on a Sunday, the following Monday shall be taken as the holiday. In addition to the above named

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holidays, other holidays declared by the Navajo Nation government and federal government may be observed.

- D. If work on a holiday is authorized, another day off shall be substituted as the holiday for the employee required to work on a holiday. This substitution time will be considered compensatory time as described in Section 28 of the EPP. Holiday work is not permitted without prior approval by an administrator.
- E. Employees will not be granted holiday pay if the employee is on unauthorized leave either on the day preceding or following the holiday.

**Section 34: Employee Benefits**

The Judicial Branch employees participate in benefit programs available to Navajo Nation employees. Any employee who wishes more information on these programs should contact their administrator or the Human Resources Office.

- A. Group Insurance.
  - 1. Group health and life insurance is available to all eligible Navajo Nation employees.
  - 2. Health Care Continuation. After severance of employment, health care coverage may be continued under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).
- B. Workers Compensation. Employees are entitled to benefits for work-related injury or disease. Workers compensation benefits shall be governed by applicable provisions within the Navajo Nation Code.
- C. Retirement Plan.
  - 1. The Navajo Nation Employee Retirement Plan. This plan is administered by the Navajo Nation Retirement Office.
  - 2. The Nihibeeso Savings Plan (401K). This is an optional retirement savings plan available through payroll deduction.
- D. Employee Assistance Program (EAP). Employees are eligible to participate in the Navajo Nation EAP which provides coverage for counseling and treatment. Sick leave shall be utilized; all travel related expenses shall be the personal responsibility of the employee.
- E. Professional Fees.
  - 1. Attorney Bar Membership Fees. Subject to the availability of funds the Judicial Branch may pay Navajo Nation Bar Association membership fee and one (1) state bar fee from New Mexico, Arizona, or Utah for attorneys whose position description requires memberships in those organizations. No other fees or legal organization memberships will be paid.
  - 2. Fees and Dues for Employees. Subject to the availability of funds, the Administrator may authorize payment of dues and fees for professional organizations for employees upon written justification of the merits of such membership for the given employee and position description.

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**Section 35: Classification Plan**

Policy. It is the policy of the Judicial Branch of the Navajo Nation to establish and maintain Classification plan which group positions based upon similar duties, responsibilities, and qualification requirements.

A. Position Classification Plan.

1. Purpose. To establish and classify positions by assigning official class titles, providing descriptions of duties and responsibilities, determining qualification requirements and setting pay rates based on duties and responsibilities.
2. Modifications. The Human Resources Director will modify the position classification plan through establishing new classes, revising or abolishing existing classifications, setting new entry level rates, and other related criteria as necessary.
3. Coverage and Exclusions. All positions, regardless of the source of funding, are covered by the classification plan.

B. Classification of New Positions.

1. The Human Resources Director shall be responsible for evaluating and classifying each position to the appropriate class. Consideration will be given to the general duties, tasks, responsibilities, and qualification requirements.
2. The approved class title, as designated by the Human Resources Director.
3. The Human Resources Director shall be responsible for maintaining the official class specifications and will provide each judicial district, office, or program a set of the relevant class specifications.

C. Reclassification of Existing Positions. A position can be reclassified at the request of the administrator whenever material and permanent change in the duties and responsibilities of the position as deemed necessary.

1. Significant and permanent changes in the duties and responsibilities of the position must be reported to the Human Resources Director.
2. A position must be officially reclassified before an administrator can take any personnel action with respect to employment or pay adjustment. The Human Resources Director shall be responsible for evaluating and reclassifying positions.
3. Reclassification shall not be used as a means to resolve performance-related problems, grievance issues, or to take the place of disciplinary actions.
4. An employee occupying a reclassified position shall be entitled to continue to serve in the reclassified position, if the employee meets the qualification requirements. If the employee is a regular status employee, he or she will retain that status.

D. Notice of Classification or Reclassification Decisions. For each position classified or reclassified, the Human Resources Director will issue written notice of the decision to the administrator and employee. The decision will specify the class to which the position has been allocated and the pay grade assigned.<sup>5</sup> The administrator will be responsible for initiating the necessary paperwork to reflect the decision.

**Section 36: Salary Computation**

A. Application of Salary Schedule. All employees in the Judicial Branch shall be compensated at

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<sup>5</sup> Although reclassifications are not adverse actions under 15 N.N.C. § 604(B)(8)(2005), reclassifications may well result in adverse impact. Therefore, the affected employee should be provided with the specific reasons for the reclassification, preferably at or prior to the time of the reclassification decision.

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one of the rates, or at a proportion of one of the rates, established in the salary schedule.

**B. Compensation for Work Days.**

1. Regular full-time and introductory employees who work or are on paid leave for 80 hours in a pay period shall be compensated at the appropriate rate for their classification.
2. Employees who work or are on paid leave for less than the full pay period shall be compensated at the appropriate hourly rate.
3. Regular part-time employees who work on a regular part-time schedule shall be compensated at the appropriate hourly rate.
4. Regular part-time employees who work on an irregular schedule shall be compensated at the appropriate hourly rate for time actually worked. Such employees shall not be compensated for a holiday, unless they actually work on the holiday with prior approval of the administrator.
5. Temporary employees shall be compensated in the same manner as regular employees. Such employees shall not be compensated for a holiday, unless they officially work on the holiday with prior approval of the administrator.

**Section 37: Compensation Plan**

- A. Plan Established. A compensation plan shall be established in which each position class shall be assigned to a salary range based upon relative responsibilities of work, comparability to prevailing rates, and other pertinent salary and economic data.
- B. Adjustments. Adjustments in the compensation plan shall be made as a result of salary surveys and studies made periodically by the Human Resources Director.
1. Such adjustments may be necessitated by the creation of new positions or classes, authorized reorganization, or changes in duties and responsibilities.
  2. All proposed changes in pay range assignments shall be limited to available funding.
- C. Each position description shall be reviewed by the Human Resources Director, and then classified and assigned to a grade within the pay structure.
- D. The Human Resources Director will establish an appropriate pay structure.

**Section 38: Bonus Pay, General Wage Adjustment, Step Increase & Salary Study**

**A. Definitions**

1. Step Increase: An increase in the employee's regular salary awarded upon approval based upon employee's yearly performance evaluation.
  2. Bonus Pay: One time special payment that is not related to rate of pay.
  3. General Wage Adjustment: A salary adjustment granted to employees from funds approved by the Navajo Nation Council or other funding sources to offset inflation.
  4. Salary Study: A salary study is a project to determine the appropriate salary range for various positions.
- B. Available Funds: No step increase, general wage adjustment or bonus pay shall be approved unless funds are appropriated and available.
- C. Salary Study: When the pay range assigned a class is changed because of salary studies, the pay of

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all employees in the class shall be changed. If funds are not available, the pay range will change but the salary will remain the same.

**Section 39: Salary Adjustment Based on Temporary Delegation**

When an employee is temporarily delegated to a higher class for more than thirty (30) consecutive days he or she shall be paid at the rate of pay assigned to that position while the employee is assigned to said position, retroactive to day one of the assignment, subject to the availability of funds.

**Section 40: Pay Advances**

- A. An employee may request a pay advance in the following situations:
  - 1. When an employee is required to travel on official business. Travel must be in accordance with existing Navajo Nation travel policies.
  - 2. Serious illness or death in the immediate family. See procedures for requesting “emergency” pay advances for serious illness or death in the immediate family issued by the Office of the Controller.
- B. All pay advances will be deducted in accordance with the current payroll processing.

**Section 41: Personnel Records**

- A. Official Personnel Records. The Judicial Branch shall keep on file employee records, which include, but are not limited to, employee information on selection, employment, orientation, training, salary, evaluation, attendance, discipline, and termination. The official personnel records will be maintained by Human Resources Office.
- B. Confidentiality. All records and information gathered and kept on employees shall be confidential. No information on an employee shall be released to any person or entity without showing a privilege or legitimate need for such information, or the information is required to be released by the Navajo Nation Privacy and Access to Information Act. Information may be released with the written and signed consent of the affected employee.
- C. Access to Records by Outside Entities. Any request for access to employee records by a person or entity from outside the Judicial Branch must be approved by Human Resources Director prior to access. Where parties from outside the Judicial Branch seek access to employee records, the employee shall be given notice of the request to protect the employee’s rights to confidentiality. Any emergency situation requiring access to employee information shall be referred to the Human Resources Director. If access is allowed, the employee shall be notified as soon as possible.
- D. Access to Records by Judicial Branch Personnel. The administrator or an individual authorized to access employee records by position description may examine the records for a purpose that serves the legitimate needs of the Judicial Branch. No Judicial Branch employee that examines the contents of an employee’s records may share this information with an outside entity or individual.
- E. Employee Access Rights. Each employee has the right to inspect and copy any information maintained in that employee’s personnel records and the right to contest the relevance or accuracy of any information maintained in the records to employee’s administrator. Employees are encouraged to keep their personnel files current by submitting to the Human Resources Office updated information on their experience, education, and training.



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- F. Documentation of Access. No person shall have access to employee records without first recording: (1) the person's name, (2) the date of access, (3) the authority of the Navajo Nation Privacy and Information Access to Information Act, and (4) the reason for access.

**Section 42: Performance Evaluation**

A formal performance evaluation of each regular employee shall be done annually. An employee's performance improvement plan is measured by the position description and any work-related written instructions given by the administrator.

A. Evaluation Requirements.

1. The performance evaluation is conducted to acknowledge good work, evaluate need for additional training, review past performance to improve skills, objectively inquire into an employee's strengths and weaknesses, set goals for the next year, assure the public that the Judicial Branch is open to analysis in order to more effectively carry out its public duties, ensure that all employees are performing the necessary tasks of their position descriptions, and serve as a basis to determine future merit or bonus pay.
2. The evaluation must measure an employee's performance in relation to the employee's position description, as well as any additional written instructions given to the employee by the administrator.
3. Any hearsay statements or reports included in the evaluation require documentation of the investigation made by the administrator to determine the reliability of the hearsay statement. If the hearsay information is deemed unreliable, then such hearsay information shall be excluded or stricken.
4. If the evaluation includes conduct of the employee not previously discussed with the employee, the administrator must state the reason for the lack of prior discussion and justify its inclusion in the evaluation.
5. Employees whose job performance or conduct is unsatisfactory shall be counseled by the administrator. The counseling shall involve an explanation of the unsatisfactory shortcoming or deficiency, actions needed to correct the identified problem, and timelines (where applicable) for improvement. Counseling shall address any training or skills improvement(s) required to deal with the indentified problem.
6. Employees who cannot perform the necessary qualifications of the position may be transferred, or if no other options are available within the Judicial Branch, terminated for cause.

- B. Evaluation Forms. Evaluations shall be conducted subject to established procedures and on forms prescribed by the Human Resources Director.

- C. Who Evaluates. The evaluation of each employee shall be made by the administrator(s) pursuant to the current organizational structure.

- D. Evaluation Signatures. The employee and administrator shall sign the evaluation form. The signature of the employee shall indicate only that he or she has been informed of the evaluation results. It does not signify agreement with the results. Any modifications made, after the employee's signature is affixed, must be read and initialed by the employee to indicate awareness of the modifications. If the employee refuses to sign, the administrator shall indicate on the evaluation form that the employee refused to sign.

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The originals of the completed evaluation forms and supporting documents shall be forwarded to the Human Resources Office for placement in the employee's official personnel file.

**Section 43: Corrective Action and Disciplinary Process**

Applicable only to regular (full or part time) employees:

- A. Progressive Discipline. The Judicial Branch follows the principles of progressive discipline. These principles require that employees be given the opportunity to correct misconduct or deficiencies in work performance. The goal is to retain and encourage positive development of an employee when it is prudent to do so. Counseling, instruction, training, and providing time to conform conduct or performance to required standards are the means for correction. Disciplinary action may also be imposed to emphasize the seriousness of the employee's failure to meet required standards.
- B. Steps of Progressive Discipline. Correction by an administrator includes counseling with no disciplinary consequences, oral reprimands, written reprimands, suspension, and termination. Generally, in progressive discipline, an employee would face increasing disciplinary actions in this sequence. Suspensions may or may not follow after one (1) written reprimand. However, if an employee receives two (2) written reprimands within a twelve-month period, the next disciplinary action will be a mandatory suspension.

In most instances, a counseling session in accordance with Section 43(D) between the employee and the administrator will be held before there is any disciplinary action taken. No counseling session is required prior to disciplinary action if the same misconduct or deficiency in performance has been counseled on two (2) prior occasions.

- C. Imposition of Disciplinary Action. Disciplinary action may be imposed for either misconduct or a deficiency in performance.
1. Misconduct. Misconduct occurs when the employee violates the EPP or other written policies and procedures established by the Judicial Branch. Misconduct includes behavior outside the workplace if it victimizes another employee or harms the integrity and professionalism of the Judicial Branch.
  2. Deficiencies in Performance. Deficiencies in performance occur when an employee fails to meet the necessary requirements in the employee's position description and the necessary standards required for the workplace.
- D. Addressing Employee Misconduct or Deficiencies in Performance.
1. The administrator shall determine whether an employee needs counseling concerning misconduct or deficiency in performance. If the administrator receives a report from a third person, the administrator must first investigate in order to determine if the report is true. If the report has no merit, the administrator is not required to take further action.
  2. If the administrator has direct knowledge of the misconduct or the deficiency of performance, or if a report received by the administrator has merit, the administrator shall conduct a conference with the employee.
  3. An initial conference for the purpose of counseling and solving problems shall be initiated and facilitated by the administrator. At the conference, the administrator shall inform the employee of the allegations that are the subject of the conference. The administrator shall document in writing the date, substance, and results of the conference.

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4. If the employee admits to the allegations set forth in the conference, the employee shall have the opportunity to recommend a solution to resolve the problem without the imposition of disciplinary action. If the administrator accepts the recommendation, the employee shall be provided reasonable time to implement a plan designed to improve or correct the employee's actions.
5. If the employee does not agree with the allegations put forth in the conference, the administrator shall listen to the employee's explanation if any. After the conference is complete, the administrator shall conduct whatever investigation is necessary to confirm or disprove the employee's explanation.
6. If the administrator determines that the allegations are true, or if an acceptable solution is not achieved after the initial conference, the administrator may choose to resolve the matter with further counseling, training and/or imposition of disciplinary action.
7. An employee shall not receive more than one (1) disciplinary action for a single instance of conduct, but the employee may receive further disciplinary action for additional violations of the same or similar nature, as well as for acts of a different nature.

E. Disciplinary Action. Disciplinary action is action taken by the administrator in response to unsatisfactory conduct or deficiencies in performance by an employee. Disciplinary action may consist of verbal reprimand, written reprimand, suspension, or termination.

1. Verbal Warning. In those instances when employee conduct is of a minor nature or a first offense, the administrator shall have a conference with the employee to advise the employee that a verbal reprimand is being administered. The administrator shall:
  - a) Explain the reason for the reprimand;
  - b) Suggest corrective action for the deficiency or misconduct;
  - c) Give the employee notice that two (2) violations within a twelve (12) month period shall result in a written reprimand;
  - d) Explain that failure to carry out counseling guidance may be declared to be an act of insubordination and may subject the employee to a separate disciplinary action.
  - e) After the meeting, the administrator shall document and retain for one year: (1) the date of the reprimand; (2) the nature of the offense; (3) the corrective action required of the employee; and (4) the reprimand administered.
  - f) The documentation shall not be given to the employee and not made part of their official personnel record.
  - g) After one year, the document shall be destroyed if no further misconduct or deficiency in performance of a similar nature requires disciplinary action.
2. Written Reprimand. When misconduct or a deficiency in performance is repeated after a verbal reprimand, the administrator may issue a written reprimand. If an employee commits serious misconduct, a written reprimand may be issued without a prior verbal reprimand.
  - g) The administrator must conduct a conference when the written reprimand is issued to explain the reasons for the reprimand, the corrective actions required to be completed by the employee, and the possible consequences to the employee if performance or conduct is not corrected in the future. The failure of an employee to follow the guidance provided at this conference may be considered to be an act of insubordination, subject to its own disciplinary action. Such insubordination may also subject the employee to suspension or termination.

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- h) Depending upon the nature and seriousness of the misconduct or deficiency in performance that is the subject of the written reprimand, an employee may be suspended or terminated if the same or similar conduct is repeated. The administrator may also choose to issue another written reprimand if such action is considered the best means of corrective action. Two (2) prior written reprimands in a twelve-month period on the same or similar conduct shall result in suspension if there is a third violation.
  - i) An employee may challenge a written reprimand by following the requirements in Section 44 of the EPP.
  - j) After explaining the reprimand, both the employee and the administrator shall sign and date the reprimand. The signature of the employee does not indicate agreement with the reprimand, but indicates that the employee has been informed of the contents and has received a copy of the written reprimand. If the employee refuses to sign or accept, the administrator shall note the refusal.
  - k) After giving a copy of the written reprimand to the employee, the administrator shall send the original to the Human Resources Office for placement in the employee's official personnel file. A copy shall be retained by the administrator.
3. Suspension. Suspension is a disciplinary action that removes an employee from work without pay for a set period of time.
- a) If an employee violates established workplace standards in a severe manner, the administrator may impose suspension, if justified, without any prior problem-solving conference or lesser steps in disciplinary action. If justified, suspension may be imposed although no previous disciplinary action against the employee has been taken. The EPP Table of Penalties (Appendix A) of this Policy provides guidance to the administrator on which offenses may justify the imposition of suspension.
  - b) Suspension may also be imposed if conduct is not improved following a written reprimand. In all cases, suspension shall be imposed following a third violation after two (2) written reprimands were issued upon the same or similar conduct within the past twelve-month period.
  - c) The administrator must provide in writing the just cause to justify the suspension.
  - d) A suspension of leave without pay up to thirty (30) calendar days may be imposed by the administrator.
  - e) A suspension of leave without pay for more than thirty (30) calendar days requires approval by the Human Resources Director.
  - f) Before imposing suspension, the administrator shall hold a conference with the employee and explain the following: 1) The reason(s) for the suspension; (2) The corrective actions required to be taken by the employee upon return to work; (3) Further consequences of increased suspension or termination if the employee's conduct is not corrected or improved; (4) The employee may challenge the suspension in accordance with Section 44 of the EPP.
  - g) After explaining the suspension, both the employee and the administrator shall sign and date the suspension. The signature of the employee does not indicate agreement with the reasons for suspension, but indicates that the employee has been informed of the contents and has received a copy. If the employee refuses to sign or accept, the refusal shall be noted by the administrator.
  - h) After giving a copy of the written suspension to the employee, the administrator shall immediately send the original to the Human Resources Office for placement in

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the employee's official personnel file. A copy shall be retained by the administrator.

4. Termination. Termination is a drastic action which may be imposed for the most extreme acts of misconduct or for the continual violation of work place standards that was the subject of previous disciplinary actions.
- a) If an employee violates established workplace standards in an extreme manner, the administrator may impose termination, if justified, without any prior problem-solving conference or lesser steps in disciplinary action. If justified, termination may be imposed although no previous disciplinary action against the employee has been taken. The EPP Table of Penalties (Appendix A) of this policy lists conduct which may justify termination of any employee.
  - b) Termination may also be imposed if conduct is not improved following a suspension. The administrator must determine if termination rather than further suspension is appropriate, considering the nature and extent of the continuing problem.

Termination may also be imposed, if justified, upon a violation concerning the same or similar conduct that is the subject of a suspension in the same twelve- month period.

- c) The administrator must provide in writing the just cause to justify the termination.
- d) Before imposing termination, the administrator shall hold a conference with the employee to explain the following:
  - 1. The administrator is recommending the termination.
  - 2. The reason(s) for the termination.
  - 3. Upon receiving the recommendation for termination, the employee shall be required to immediately vacate the premises and comply with Section 50 of the EPP.
  - 4. The employee may challenge the termination in accordance with Section 44 of the EPP, if the Human Resources Director approves the recommendation pursuant to Section 43(E)(4)(g).
- e) After explaining the recommendation for termination, both the employee and the administrator shall sign and date the recommendation. The signature of the employee does not indicate agreement with the recommendation, but indicates that he or she has been informed of the contents and has received a copy of the written recommendation. If the employee refuses to sign or accept a copy of the recommendation, the refusal shall be noted on the recommendation by the administrator.
- f) After giving a copy of the written recommendation to the employee, the administrator shall immediately send the original to the Human Resources Office for placement in the employee's official personnel. A copy shall be retained by the administrator.
- g) Upon approval by the Human Resources Director, the termination shall become effective.

**Section 44: Grievances**

- A. Subjects of Grievances. Actions and evaluations which affect the employee's terms and conditions of employment and which constitutes an adverse employment action may be grieved. These include, but are not limited to written reprimands, suspension, termination and evaluations which affect the employee.

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- B. Eligibility. Regular full-time and regular part-time employees are entitled to the grievance process.
- C. Retaliation. Retaliation for challenges to disciplinary actions is prohibited.
- D. Informal Process. If an employee chooses to use the informal process of dispute resolution as set forth at Section 25 before filing a formal grievance, the time period necessary for filing a formal grievance does not begin until the informal process has been completed or after the third party mediator writes a report within five (5) days or when the employee has chosen to withdraw from the informal process. The administrator shall record the date and time of the complaint to begin the tolling period. At the conclusion of the informal session, the employee may file a formal grievance.

The tolled time to file a formal grievance will resume at the conclusion of the informal session(s). The employee has ten (10) days from the date of this written notice to file formal grievance.

- E. Procedural Requirements.
  - 1. Written grievances shall be filed directly with the chairperson of the Judicial Branch Grievance Board (JBGB) by the grievant with a copy given to the administrator. Grievances shall be filed, either by fax or delivery to the chairperson, within ten (10) working days after the administrator serves on the employee the written disciplinary action.
  - 2. Within five (5) working days of receipt, the chairperson shall determine:
    - a) If the written grievance is submitted on a timely basis; and
    - b) If the JBGB has subject matter jurisdiction.
  - 3. Grievances determined to be untimely filed, not subject to the jurisdiction of the JBGB, or not properly processed shall be denied by the chairperson and not accepted for formal grievance.
  - 4. All grievances shall be initiated and processed during regular work hours.
  - 5. The grievance shall state in detail the grievant's complaint and the relief requested.
  - 6. Upon acceptance of the grievance, the chairperson shall set the matter to be heard within thirty (30) calendar days at an appropriate place convenient to the parties.
  - 7. Within five (5) working days upon acceptance of the grievance, the chairperson shall give written notice of the time and place of the hearing to the board members and the affected parties.
  - 8. The chairperson may compel the appearance of witnesses. Such witnesses shall be immediately notified. Any retaliation against an employee who participates as a witness is prohibited.
  - 9. Failure of the grievant to appear at scheduled grievance hearings without good cause shall be deemed a withdrawal of the grievance.

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10. Failure of the respondent to appear at scheduled grievance hearings without good cause shall result in the JBGB rendering a decision based on the record and testimony of available witnesses.
  11. Right to Representation by Counsel. Grievant's have the right to representation in all grievance proceedings by counsel at their own expense. Counsel shall be a regular member of the Navajo Nation Bar Association. Where a grievance is against a local judicial district, the assigned staff attorney to such district shall represent the respondent, except in the case of conflict or other circumstances the Chief Justice or his/her designee will assign a staff attorney to represent the respondent. Where the grievance is not against a judicial district the Chief Justice or his designee shall assign a staff attorney to represent the respondent.
  12. Disqualification of Grievance Board Member. Either party may file a written motion to recuse a board member for good cause based on immediate relationships by blood, affinity or clanship, conflict of interest, or other reasons which may affect a fair hearing. The motion for recusal must be submitted to the JBGB chairperson at least ten (10) days before the date of the hearing. A determination on recusal shall be made before the scheduled hearing date. A board member may also voluntarily recuse himself or herself from participation in a grievance proceeding by notice to the chairperson.
- F. The Judicial Branch Grievance Board. The Judicial Branch Grievance Board shall be composed of the following three (3) members: (1) a judge and an alternate, appointed by the Chief Justice or his/her designee; (2) an employee representative or alternate, and second alternate elected at large by the Judicial Branch personnel; and (3) an individual with personnel management experience or alternate not employed by the Judicial Branch, appointed by the Chief Justice or his/her designee.
1. All positions on the JBGB shall be for a term of two years or until replacements are named. Incumbents shall be eligible for reappointment or reelection.
  2. If the appointed judge is from the same judicial district as either the employee representative or the grievant, or the appointed judge is unable to serve for any reason, the Chief Justice or his/her designee shall appoint another judge from another judicial district to serve until that grievance has reached disposition.
  3. If the employee representative is from the same judicial district as either the appointed judge or the grievant, or the employee representative is unable to serve for any reason, the alternate from a another district shall fill that position on the board until that grievance has reached disposition.
  4. If the appointed non-Judicial Branch individual is unable to serve for any reason, the Chief Justice or his/her designee shall appoint another representative until that grievance has reached disposition.
- G. Hearing Procedures. The appointed judge shall be the chairperson. The chairperson shall preside at every grievance hearing. No hearing shall be held without all three members present.
1. The proceedings shall be recorded.

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2. The board chairperson shall conduct the hearing and afford the parties opportunity to introduce evidence. Evidence shall include taking testimony from witnesses and cross-examination of witnesses. Testimony shall be under oath or affirmation. The panel may freely ask questions to solicit facts.
3. Rules of Evidence shall not be strictly applied. However, irrelevant or repetitious evidence may be excluded. Reliable hearsay is permitted.
4. The grievant shall have the burden of going forward to show jurisdiction and a factual basis for review. If the chairperson decides that the grievant has met this burden, the chairperson shall so rule and the burden shall then shift to the respondent to show that the action(s) taken were consistent with the EPP.
5. Upon hearing the evidence and statements of the parties and after careful consideration, the board by majority vote shall render a written decision within ten (10) working days and send the written decision to the Chief Justice or his/her designee. The decision, which shall be based upon the greater weight of the evidence, shall contain findings and either order dismissal of the grievance or remedial action which shall be limited to reinstatement, back pay with benefits, and/or removal of personnel records from the employee's personal file. The Chief Justice or his/her designee, pursuant to 7 N.N.C. § 371, shall automatically review the board decision for legal and factual sufficiency and sustain or overrule the board decision or remand the decision back to the JBGB for further action.
6. After final review by the Chief Justice or his/her designee, the written decision shall be distributed to the JBGB, parties, and their representatives, and the Human Resources Director.

**Section 45: Judicial Branch Grievance Board Procedures**

- A. The Judicial Branch Grievance Board (JBGB) will implement the following procedures in all cases:
  1. The JBGB will hear all grievance complaints presented to the board.
  2. Grievance hearings will be conducted at the work site location of the grievant, unless the grievant requests otherwise in writing.
  3. No hearing will be held without the presence of the full board.
  4. All three board members shall participate in all aspects of the decision-making process.
  5. Failure of the grievant to proceed without good cause with his or her grievance after filing with the JBGB shall be deemed withdrawal of the grievance.
- B. Board Employee's Policies and Procedures.
  1. The chairperson or designated board member will assign a number to each new grievance case. Human Resources Director shall maintain a record of all grievances filed.



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2. The chairperson or designated board member will mail hearing notices with the time, date, and location of the grievance hearing to all board members.
3. The chairperson or designated board member will make hearing arrangements, such as identifying space to hold the grievance hearing, recording equipment, board accommodations, etc.
4. Hearings shall begin promptly as designated by the chairperson or designated board member. The complaint may be dismissed if the grievant is late or fails to appear. Dismissal may be reconsidered for hearing if the grievant gives justifiable reason(s) for late appearance. Granting of request to proceed with hearing is at the discretion of the chairperson.
5. The hearing shall proceed as follows:
  - a) The chairperson shall open the hearing.
  - b) Roll call of board members or alternates.
  - c) Introduction of all parties (grievant, counsel, witnesses, etc.)
  - d) Brief statement of grievance case by board chairperson.
  - e) Administration of oath to all who will testify and present evidence.
  - f) Statements of issues by both parties and counsels.
  - g) Exclusion of witnesses upon request.
  - h) Presentation of case by the grievant with direct and cross-examination:
    1. Calling first witness (and subsequent witnesses, if any);
    2. Direct examination;
    3. Cross examination;
    4. Redirect examination;
    5. Closing statement.
  - i) Presentation of respondent's case with direct and cross-examination:
    1. Calling first witness (and subsequent witnesses, if any);
    2. Direct examination;
    3. Cross examination;
    4. Redirect examination;
    5. Closing statement.
6. The JBGB will go into executive session for a decision.
7. The JBGB will reopen the hearing to announce its decision.
8. Close grievance proceedings.
9. The Board will send the written decision to the parties within ten (10) days.
10. The decision, which shall be based upon the greater weight of the evidence, shall contain findings and either order dismissal of the grievance or remedial action which shall be limited to reinstatement, back pay with benefits, and/or removal of personnel records from the employee's personal file.

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- C. Either party may request reconsideration of the board's decision within fifteen (15) working days after receipt of the JBGB's decision by filing a written request and written arguments supporting the request.
1. The requesting party shall send the original documents to the JBGB chairperson and send copies to the rest of the board members and opposing party.
  2. The opposing party shall have ten (10) working days after receipt of reconsideration request to file written arguments in response. The responding party shall send the original documents to the chairperson and send copies to the rest of the board members and requesting party.
- D. The JBGB will meet within thirty (30) working days after receipt of all documents to consider written arguments. No new evidence shall be admitted.
- E. The Chief Justice or his/her designee, pursuant to 7 N.N.C. § 371, shall automatically review the final board decision for legal and factual sufficiency and sustain or overrule the board decision or remand the decision back to the JBGB for further action. This review shall commence after fifteen (15) working days from the original board decision when no reconsideration is filed or immediately after a decision on the reconsideration is rendered by the board. The chairperson shall turn the complete grievance file over to Human Resources Director after the final disposition of the grievance within thirty (30) days from the date a final order is issued either from the JBGB or from the Chief Justice or his/her designee for archiving.

**IV. NÁHOOKQS, DIB\$NTSAA, SIHASIN, BÁÁZHINII SAAD**

(North, Mt. Hesperus/North Mountain, Affirmation, Jet Words)



**Sihasin** (Hope & Reflection): NORTH- BLACK- DIBE'NITSAA

Purpose. Sihasin is contained within the North cardinal direction. Sihasin in the workplace means that one has achieved wisdom and professional competence. Through K'é, one is steadfast and adamant in life and work, and has achieved contentment. The attitude is positive. The employee is an advisor, guide, and model; has gained respect, honor and dignity; and practices these for all to see, Sihasin,

- Hopeful and successful outcomes in personal and professional understanding at home and in the work place. (If you have problems at work, you come to term with those issues at home)
- Becoming Appreciative, Hopeful and Respectful in the work place. (Baa aheeh hwiindzin, sihasin, ba jidisin hol ni li)
- Hopeful, respectful and understanding K'e in the workplace and home.(K'e exist in all)
- Hopeful and grateful for this Tribal job opportunity and its benefits.
- Hopeful and respectful of Tradition and Spirituality (Tsoh di zin).

This part of the Policy is tied to the cardinal direction of North. The employees will be taught about the culmination of their careers and the importance of protection.

**JUDICIAL BRANCH OF THE NAVAJO NATION  
EMPLOYEE POLICIES AND PROCEDURES**

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**Section 46: Reduction in Force<sup>6</sup>**

- A. Application. When a permanent position(s) cannot be continued because of lack of work, lack of funds, or reorganization, the position(s) shall be abolished or vacated by layoff.<sup>7</sup>
- B. Non-Permanent Employees. Temporary and introductory employees who are laid off for purposes of reorganization are not entitled to reemployment preference.
- C. Notice. An employee of the Judicial Branch who is to be laid off shall be given 15 calendar days written notice.<sup>8</sup>
- D. Recall Procedure. Subject to Navajo preference in employment laws, an employee who is laid off shall be entitled to reemployment preference according to the following provisions:
1. Recall in Order. A permanent employee who is laid off shall be recalled in order of seniority into any active and vacant position for which the employee is qualified when the position is in the same classification and the same department as the position held at the time of lay off / reduction in force. Order of recall preference after receiving written notification of reduction in force for a period of up to one year following lay off. Recalls shall follow the order:
    - a) Navajo in order of seniority
    - b) Non Navajo legally married to a Navajo in order of seniority
    - c) Non Navajo in order of seniority
  2. Program/grant. Program employees are not eligible for recall provisions after the term of program fund expires.
  3. P.L. 93-638. If a person is laid off due to changes in funding of a particular P.L. 93-638 contract, and the same position is newly funded from another source, the person who is laid off will be given an opportunity for recall.
- E. Rehire
1. Preferential Rehire Consideration. A permanent employee who is laid off shall receive preferential consideration for the same position description for which they held before lay-off. The preferential consideration will be given in the order of Subsection (D)(1) above.  
  
Preference will be extended to people laid off to receive notice for in house transfers in accordance with the Judicial Branch EPP, Section 4. Position Vacancies.
  2. Trial Re-Hire Period. Preferential rehire employees will be required to serve the normal 90-day introductory period for all Judicial Branch new employees.

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<sup>6</sup> Section 46 must be read with *Addendum A*: "Order of Layoff: Temporary, Introductory and Permanent Employees," implemented by the Chief Justice pursuant to Administrative Order 30-2013 (July 18, 2013).

<sup>7</sup> Refer to the Order of Layoff in Addendum A.

<sup>8</sup> Per Addendum A, lay-off or transfer notices are issued by the Human Resources Director. The Program Manager then gives the notice to the affected employee. Additionally, the NPEA requires the affected employee to be provided with written notification of the specific reasons for the layoff at the time of the action. 15 N.N.C. § 604(B)(8) (2005) and *Milligan v. NTUA*, No. SC-CV-31-05 (Nav. Sup. Ct. March 23, 2006).

**JUDICIAL BRANCH OF THE NAVAJO NATION  
EMPLOYEE POLICIES AND PROCEDURES**

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3. Waiver of Reemployment Rights. Recall and preferential rehire rights are waived when:
- a) an employee negotiates an alternative accommodation with the Judicial Branch;
  - b) a candidate fails to respond to written notice of a re-hire opportunity;
  - c) a candidate who is re-hired fails to satisfactorily complete the 90-day introductory period;
  - d) a candidate refuses an offer of recall or re-employment;
  - e) a candidate accepts another Navajo Nation position. f) a candidate retires from Navajo Nation Employment.

F. Navajo Preference. Navajo laws mandating Navajo employment preference shall apply.

**Section 47: Resignation**

An employee may voluntarily terminate employment with the Judicial Branch.

- A. The employee shall submit a notice of resignation to the administrator prior to the effective date of resignation.
- B. The administrator shall provide the employee a written acknowledgement that the resignation was accepted. No notice of resignation shall be withdrawn after written acceptance by the administrator.
- C. Upon acceptance, the administrator shall submit a copy to the Human Resources Office for Personnel Action Form (PAF) processing.
- D. Failure of an employee to give at least ten (10) working days notice may result in the significant delay in receiving accrued annual leave payment.

**Section 48: Retirement**

An employee may retire in accordance with the Navajo Nation Retirement Plan. The employee should give written notice to the administrator at least ten (10) working days prior to retirement. Upon acceptance, the administrator shall submit a copy of retirement to the Human Resources Director for Personnel Action Form (PAF) processing.

Employees will be given credit for unused sick leave, according to the procedures and policies of the Retirement Benefit Services of the Navajo Nation.

**Section 49: Involuntary Termination**

- A. An employee may be involuntarily terminated for just cause.
- B. An employee who becomes physically or mentally impaired to the extent the employee is unable to perform the duties and responsibilities of the position description may be involuntarily terminated. Termination for disability shall be only upon the written statement of a physician that the condition is, or is likely to be, long term or permanent.

Long term means any disability where the employee is not likely to be able to perform the duties and responsibilities of the position description for one year or more from the date the disability began.

**JUDICIAL BRANCH OF THE NAVAJO NATION  
EMPLOYEE POLICIES AND PROCEDURES**

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**Section 50: Return of Navajo Nation Property**

Upon separation of employment, an employee shall turn over all property of the Judicial Branch in the employee's possession or custody to the administrator. The employee shall be liable for any property not returned or for any property that is damaged or destroyed by the employee, including any damage or deletion of computer storage files or other electronic devices. The Navajo Nation reserves the right to offset costs and expenses by deduction from the employee's last paycheck or annual leave payout.

**Section 51: Death**

- A. When advised of an employee's death, the administrator shall immediately notify the Human Resources Director.
- B. The Human Resources Director shall in coordination with the Navajo Nation Employee Benefit Office provide documentation regarding salary, overtime pay, reimbursements, or accrued annual leave payments.
- C. An employee is considered to have been on pay status on the day of death, unless a leave without pay had been previously approved for that day.
- D. The effective date of the separation from employment shall be the date of death.

**JUDICIAL BRANCH OF THE NAVAJO NATION  
EMPLOYEE POLICIES AND PROCEDURES**

**APPENDIX A:**

**JUDICIAL BRANCH POLICIES AND PROCEDURES  
TABLE OF PENALTIES**

Those responsible for the administration of discipline must be firm, impersonal, and free from prejudice. In the interest of administering justice as uniformly as possible in accordance with the policies as stated, the following Table of Penalties and suggested disciplinary actions are incorporated herein.

<b>No.</b>	<b>OFFENSE</b>	<b>1<sup>ST</sup> OFFENSE</b>	<b>2<sup>ND</sup> OFFENSE</b>	<b>3<sup>RD</sup> OFFENSE</b>
<b>01.</b>	Theft of Navajo Nation property.	Removal		
<b>02</b>	Intentional misuse of Judicial Branch funds.	Removal		
<b>03.</b>	Solicitation or acceptance of bribes or kickbacks.	Removal		
<b>04.</b>	Falsification or unauthorized alteration of any Navajo Nation record.	Removal		
<b>05.</b>	False statement(s) of material fact in Judicial employment application or related documentation.	Removal		
<b>06.</b>	Maintaining second or outside employment without proper approval.	Removal		
<b>07</b>	Contracting or recommending a contract with a party where the employee has equity or other beneficial interest.	Removal		
<b>08.</b>	Fraud and/or conspiracy to commit fraud.	Removal		
<b>09</b>	Embezzlement of tribal funds including misuse of credit card, purchase card and fuel card.	Removal		
<b>10.</b>	Perjury in judicial court or before an official Navajo Nation body or tribunal.	Removal		
<b>11.</b>	Concealing, removing, mutilating, obliterating, or destroying Navajo Nation records or documents without authorization.	Removal		
<b>12.</b>	Abuse of office or position.	Removal		
<b>13.</b>	Failure to directly call or report to the administrator for three (3) consecutive working days or abandonment of job.	Removal		
<b>14.</b>	Planning, initiating, participating in or otherwise aiding or assisting in the conduct of any riot or unlawful demonstration.	Removal		
<b>15.</b>	Sexual harassment by the administrator.	Removal		
<b>16.</b>	Operating a tribal vehicle under the influence of alcohol, an illegal drug, or a controlled substance not prescribed by an authorized medical professional.	Removal		

**JUDICIAL BRANCH OF THE NAVAJO NATION  
EMPLOYEE POLICIES AND PROCEDURES**

17.	Egregious misconduct which calls into question ones fitness for continued employment in position with the Judicial Branch.	Removal		
18.	Malicious damage to Navajo Nation property including, but not limited to, graffiti, vandalism, etc.	Removal		
19.	Endangering the physical well being of any individual including, but not limited to, threats of, or actual violence.	Removal		
20.	Disclosing confidential court-related or Judicial Branch termination-related information to unauthorized person(s).	Removal		
21.	Two (2) Consecutive Unauthorized Absences, Rule 32. Leave Responsibility and Scheduling, B.	Suspension (up to 5 working days)	Removal	
22.	Severe misconduct which calls into question ones fitness for continued employment in position with the Judicial Branch.	Suspension (up to 30 working days) or removal.	Removal	
23.	Sexual harassment by a non-administrator.	Suspension (up to 30 working days) or removal.	Removal	
24.	Operating a vehicle under the influence of alcohol, illegal drug, or a controlled substance not prescribed by a medical professional.	Suspension (up to 30 working days) or removal.	Removal	
25.	Displaying of intoxication on the job from alcohol, illegal drug, or a controlled substance not prescribed by a medical professional.	Referral and evaluation to Employee Assistance Program <u>and</u> Suspension (up to 30 working days)	Removal	
26.	Possession of an unauthorized weapon(s) in the workplace.	Suspension (up to 30 working days)	Removal	
27.	Use of a tribal vehicle in violation of the motor vehicle regulations, including, but not limited to the use of a tribal vehicle for personal use.	Suspension (up to 30 working days)	Removal	
28.	Reckless or negligent misuse of Navajo Nation property.	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal

**JUDICIAL BRANCH OF THE NAVAJO NATION  
EMPLOYEE POLICIES AND PROCEDURES**

29.	Misappropriation of services.	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
30.	Neglect of duty.	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
31.	Excessive absenteeism, including tardiness.	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
32.	Unsatisfactory work performance.	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
33.	Performing activities for personal gain when on the job including, but not limited to, campaigning for political office.	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
34.	Habitual use of intoxicants to excess which affects job performance.	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
35.	Mistreatment of any individual(s) which jeopardizes health or safety.	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
36.	False accusation against employee(s).	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
37.	Violation of safety regulations which endangers oneself or others.	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
38.	Failure to treat the public or fellow employees with courtesy.	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
39.	Insubordination includes violation of any policy contained in this manual.	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
40.	Failure to complete employee performance evaluations as required.	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
41.	Offer of employment by unauthorized personnel.	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
42.	Creating discord among fellow employees leading to decreased productivity or a hostile working environment.	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
43.	Use of abusive or vulgar language and/or gestures.	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal



**JUDICIAL BRANCH OF THE NAVAJO NATION  
EMPLOYEE POLICIES AND PROCEDURES**

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**APPENDIX B:**

**NOTICE OF EMPLOYEE SESSION OUTCOME FORM**

\_\_\_\_\_  
Name of Initiating Party

\_\_\_\_\_  
Name of Responding Party

I, \_\_\_\_\_, the initiating party, in accordance with Section 25 of the Judicial Branch Employee Policies and Procedures, hereby provide you with this Notice of Employee Session Outcome Form containing the following information.

**General Nature of the Complaint:**

\_\_\_\_\_  
\_\_\_\_\_

**Type of Session Held:**     BAAYAT'I         MEDIATION         PEACEMAKING

<b>Date of Session:</b>		
<b>Time Start:</b>		a.m. / p.m.
<b>Time End:</b>		a.m. / p.m.

**If more than one session, please indicate below:**

<b>Date of Session:</b>		
<b>Time Start:</b>		a.m. / p.m.
<b>Time End:</b>		a.m. / p.m.

**Session Outcome:**

- All of the issues were resolved
- Part of the issues were resolved
- None of the issues were resolved

\_\_\_\_\_  
Signature of Administrator

**Please submit ORIGINAL to: Judicial**

**Branch of the Navajo Nation  
Attention: Human Resources Director  
PO Box 520  
Window Rock, AZ 86515**

**JUDICIAL BRANCH OF THE NAVAJO NATION  
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**APPENDIX C:**

**THE JUDICIAL BRANCH OF THE NAVAJO NATION  
NATIVE TRADITIONAL HEALING VERIFICATION FORM**

**EMPLOYEE'S REQUEST AND INFORMATION**  
(To Be Completed By Employee ONLY)

<b>Employee Name:</b>			
<b>Judicial District:</b>			
<b>Leave Start Date:</b>		<b>Time Start:</b>	a.m./p.m.
<b>Leave End Date:</b>		<b>Time End:</b>	a.m./p.m.

**NATIVE TRADITIONAL PRACTITIONER STATEMENT**  
(To Be Completed By Native Traditional Practitioner Only)

<b>Name of Practitioner:</b>	
<b>Date of Ceremony:</b>	

**PATIENT(S):**     EMPLOYEE         EMPLOYEE'S SPOUSE         EMPLOYEE'S CHILD(REN)

\_\_\_\_\_  
Signature or THUMB PRINT of Practitioner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

Please submit **ORIGINAL** to: Judicial

**Branch of the Navajo Nation**  
**Attention: Human Resources Director**  
**PO Box 520**  
**Window Rock, AZ 86515**

**JUDICIAL BRANCH OF THE NAVAJO NATION  
EMPLOYEE POLICIES AND PROCEDURES**

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**APPENDIX D:**

**REQUEST FOR EDUCATION LEAVE FORM**

**EMPLOYEE INFORMATION (Fill Out Completely, Black Ink Only)**

<b>Employee Name:</b>			
<b>Judicial District:</b>			
<b>Leave Start Date:</b>		<b>Time Start:</b>	a.m./p.m.
<b>Leave End Date:</b>		<b>Time End:</b>	a.m./p.m.

**EMPLOYEE STATEMENT (To Be Filled Out By Requesting Employee Only)**

I, \_\_\_\_\_ certify that the request for educational leave is in accordance and consistent with the Judicial Branch Employee Policies and Procedures, Rule 31., H. in its entirety and understand that failure to comply with the policies outlined in the Employee Policies and Procedures will result in forfeiture and nullifying the agreement signed prior to the request being approved.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

**IMMEDIATE SUPERVISOR REVIEW & CONCURRENCE (Fill Out Completely, Black Ink Only)**

<b>Administrator Name:</b>	
<b>Official Title:</b>	
<b>Judicial District:</b>	
<b>Date of Review:</b>	
<b>Concurrence (Signature):</b>	

**HUMAN RESOURCES REVIEW & APPROVAL/DENIAL**

I, \_\_\_\_\_ certify that the request for educational leave is in accordance and consistent with the Judicial Branch Employee Policies and Procedures, Rule 31. H. in its entirety.

APPROVED       DENIED REASON: \_\_\_\_\_

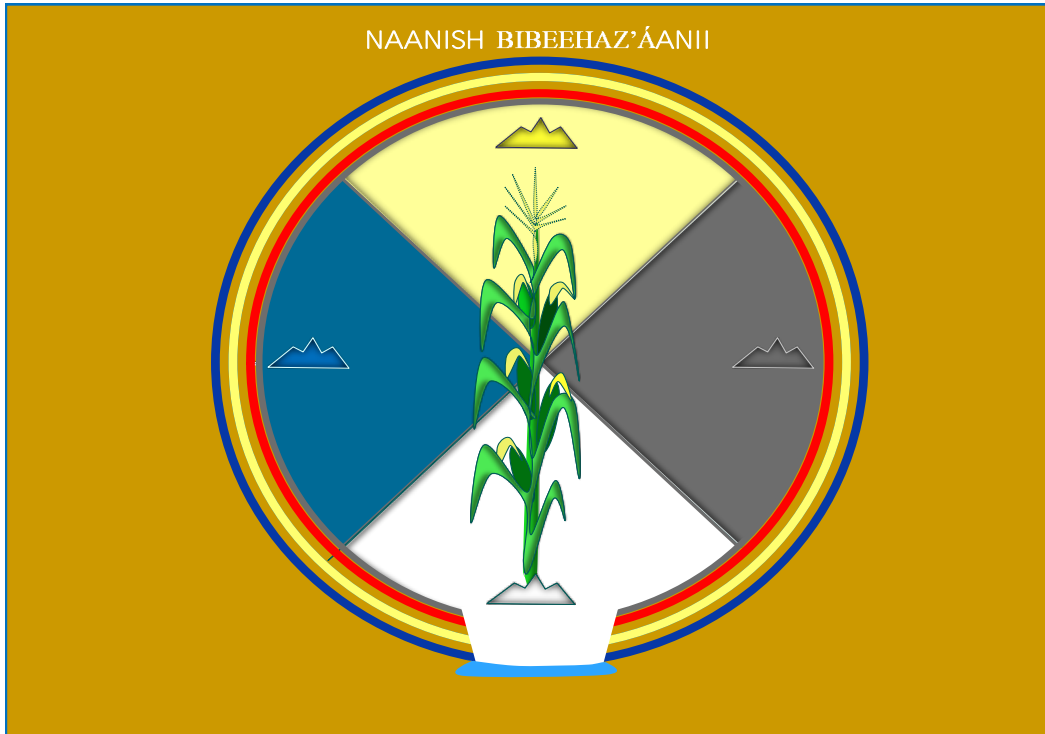
\_\_\_\_\_  
Human Resources Director

\_\_\_\_\_  
Date

**JUDICIAL BRANCH OF THE NAVAJO NATION  
EMPLOYEE POLICIES AND PROCEDURES**

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**APPENDIX E.**



**JUDICIAL BRANCH OF THE NAVAJO NATION  
EMPLOYEE POLICIES AND PROCEDURES**

**APPENDIX F:**



**Naansa' Naadqá' dóó Bitááidim**

Diné bina'nin bini'gi naansa' i'shágíí éí naadqá' á'c. Naadqá' éí Diné bina'nin bise' siléi á'cédóó bix'qádóó bich'iyyá hólqóóóó bitááidim éí yee náá'itniigo yee wóóilzin. T'áá háádqé' shíí éí Nihookáá' Dine'é Bida'as hda'ú hodideezlí'qé' éí naadqá' níjinií hane' bidadiir'i'go bB ha'azdél dóó díshjíidii r'ahdii r'áá'á'kó'ré'go nihich'iyyá' dóó niwóóilzin níjigo bee hini'náádóó bee yíldah. Naadqá' bixóóí bix'qádóó éí wóóilzin nínáánilahgo bix'qádóó Tádidiin hólqóóóó Diné yee wóóilzin.

Diné teaching illustrates the significance of the cornstalk and its fruitor as the philosophical core of Diné Way of Life. Traditional stories as told by Diné elders give reference to its origin and emergence since time immemorial, as it depicts the importance of subsistence and spiritual value in use and offering of sacred Corn Pollen with prayer.

Figure One



The following graphs will illustrate the four sacred directions based on the traditional teachings and its philosophical aspects and significance in understanding the Dine Way of Life. Each figure is accompanied and guided by a red arrow.

**Iin1 Biyij8' Hod7Izingo, Anoo44[ d00 Naanish bee I keed1ago Bee Haz'33d00 Na'nitin**

D77 k==n d99'go a[ts'1hon7[tsogo n1'1dzoogo naashch'22'7g77 47 Din4 Be'ina' Bits4 Sil47 bee bi[ hahod7t'4. A[ts'1 hon7[tsogo haz'1n7g77 47 t'11 d99'g00 diyin k'ehgo bee haz'1n7g77 1t'44d00 yaahalne'. T'11 d99'g00 a[ts'1hon7[tsoo7g77 biyi' a[d0' 47 dzi[ dadiyin7g77 bil' sinil: Sisnaajin7, Tsoodzi[, Dook'o'os[77d d00 Dib4ntsaá, n11n1 Ch'0ol'97 d00 Dzi[ N1'oodi[i 47 ch'4'4tiin sil47 1t'4igo bee hahod7t'4.

**Respecting Employment Policies through Growth and Development in the Workplace**

The following illustration identifies the traditional four cardinal directions as the core of the Din4 Way of Life. It specifically explains the sacred traditional significance and meaning in each of the four directions. The focal point and significance is based on the four sacred mountains: Mt. Blanca, Mt. Taylor, San Francisco Peak, and Mt. Hesperus; also includes the two entrance mountains in Gobernador Mt. and Huerfano Peak.

D77 a[ts'1hon7[tso d00 dzi[ a[h44 n7n7l7g77 47 hooghan 1t'4igo bee hahod7t'4. Ch'711hdeii d00 ch'4h4tiin h0l=-go, 11d00 N11ts'7lilid 47 nihin1haazl1ago ah44n7t'1'd00 ch'4'4tiin7jigo 47 ch'7hool'1.

The significance and encompassment of these sacred mountains are geographically situated in the shape of a Din4 home(accordingly to Din4 Ceremonial rites in H0zh==j77), having an entrance and an imaginary smoke hole for the fire place; it is also encircled by the rainbow with an opening to the east as an entrance.

**JUDICIAL BRANCH OF THE NAVAJO NATION  
EMPLOYEE POLICIES AND PROCEDURES**

**APPENDIX G:**

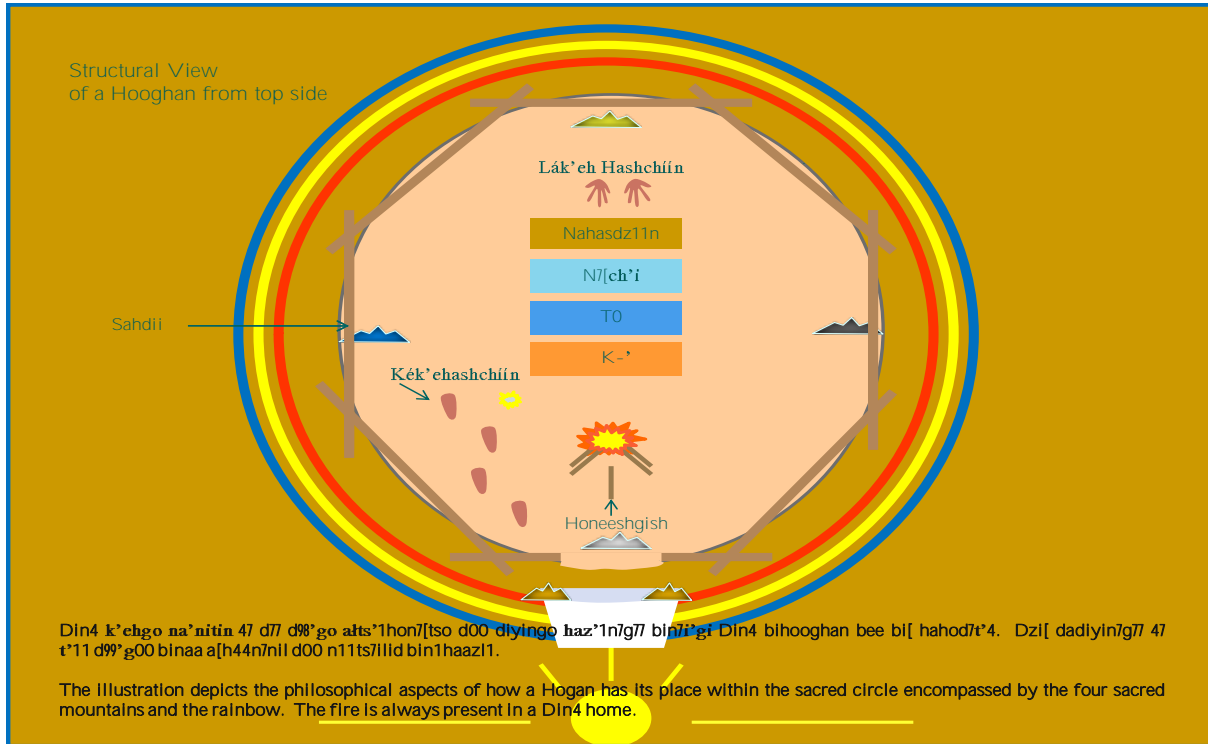


Figure Three

**Ha'a'aahjigo**

J0 Din4 B7la'ashdla'ii 47 t'11 1k0t'4igo be'iina' b7ts4 sil4ii nil9go bi[ nibi't'eely1, Diyin Dine'4 sh99 t'11 1k0t'4igo yee hadahodi1laa. D77 bee haz'1n7g77 47 na'nitín danl9go yinahj8' Din4 be'iina' yid7singo yee d00 yinahj8' be'iina' naat'i'. D77 binahj8' 47 Din4 be'iina' yidisin, h1111 t'11 d99'g00 47 bitsodizin diits'a, 7nda t'11 d99'g00 a[d0' bibeehaz'1anii yid7sin: **Ha'a'aahjigo** Sisnaajin7 be'edziil d00 bitsodizin yee tsodilzin. Yoo[gaii d00 na'ad3'1[gaii nayii[niihgo yee tsodilzin, 7nda ha'a'aahjigo bihooghan bich'4'4tiin d00 hahoo[k11[ yitahj8' tsodizin yiniy4 ch'7n1d11h; 11d00 7nda ha'a'aahjigo 47 bints1h1kees nahadee[go 1y0sin. Be'iina' d00 bighan haz'32gi, choo'99[ nits1h1kees d00 hajooba' 1hwiindzin yee nin1d11h.

The Earth Surface People in Din4 Way of Life was created with a sacred foundation accordingly by the Holy Deities. The principle foundation to the East with Mt. Blanca / Sis Naajin7 and the early morning dawn is therefore empowered and encompassed with the teachings of the Fundamentals Laws of Din4 / Din4 Bibeehaz'1anii by which life is accorded; a reason why the People respect and offer their songs and prayers to the four directions accordingly. Din4 home always has an entrance to the east, as the stimulating of the mind through prayer is always offered with Whiteshell and white cornmeal to acknowledge the early morning dawn, the holy deities and Mt. Blanca. Mt. Blanca is adorned with the mineral goodness in Yoo[gaii and empowered values in songs and prayer. People pray for their homes, good thoughts and hope for a good life.

# JUDICIAL BRANCH OF THE NAVAJO NATION EMPLOYEE POLICIES AND PROCEDURES

## APPENDIX H:

Figure Four



Shádi'áahjigo

**Sh1d1'1ahjigo** 47 Nihodeet[í'izh bitahj8' Din4 **bibeehaz**'1anii yid7sin d00 **binahat**'a' nahaadee[go yik'ehgo be'iina' d00 binaanish 1y0sin. Tsoodzi[ 47 Doot[í'izhii, tsodizin d00 sin **be'edzii**1 bee bi[ hahod7t'4igo Din4 yee tsodilzingo yinahj8' **be'iina**' d00 **binahat**'a' nahaadee[ d00 yee **nant**'11go yee hin1.

To the South lies the significance of daytime / Nihodeet[í'izh in which Din4 respects the way of life through planning as empowered by prayers and songs of Mt. Taylor / Tsoodzi[. The sacred mountain Tsoodzi[ is adorned with the mineral goodness in Turquoise Shell / Doot[í'izhii, the principle value of **life**'s processes in planning as encompassed by the values of Din4 **Bibeehaz**'1anii.

Figure Five



E'e'aahjigo

**E'e'aahjigo** 47 Nihootsoi bitahj8' Din4 Dook'o'ooos[7d bidiy99' ni19go Diichi[7 d00 lin1 bee bi[ hahod7t'4igo Din4'4 biyiin, bitsodizin 1y0sin d00 bibe'edzii1 1t'4ego yinahj8' **be'iina**' bee bi[ hahod7t'4. Diichi[7 47 bini1'iz ni19d00 n11yii[niihgo be'iina' yaah33h n7zingo **nee'ni**j8' iin1 yaah tsodilzin.

To the West lies the significance of San Francisco adorn with the mineral goodness in Abalone Shell and the evening twilight. Din4 People respect, care and cherish their lives as they acknowledge and empower themselves by instilling the principles of spiritual strength to discipline, strive, survive and subsist through prayers and songs.

**JUDICIAL BRANCH OF THE NAVAJO NATION  
EMPLOYEE POLICIES AND PROCEDURES**

**APPENDIX I:**

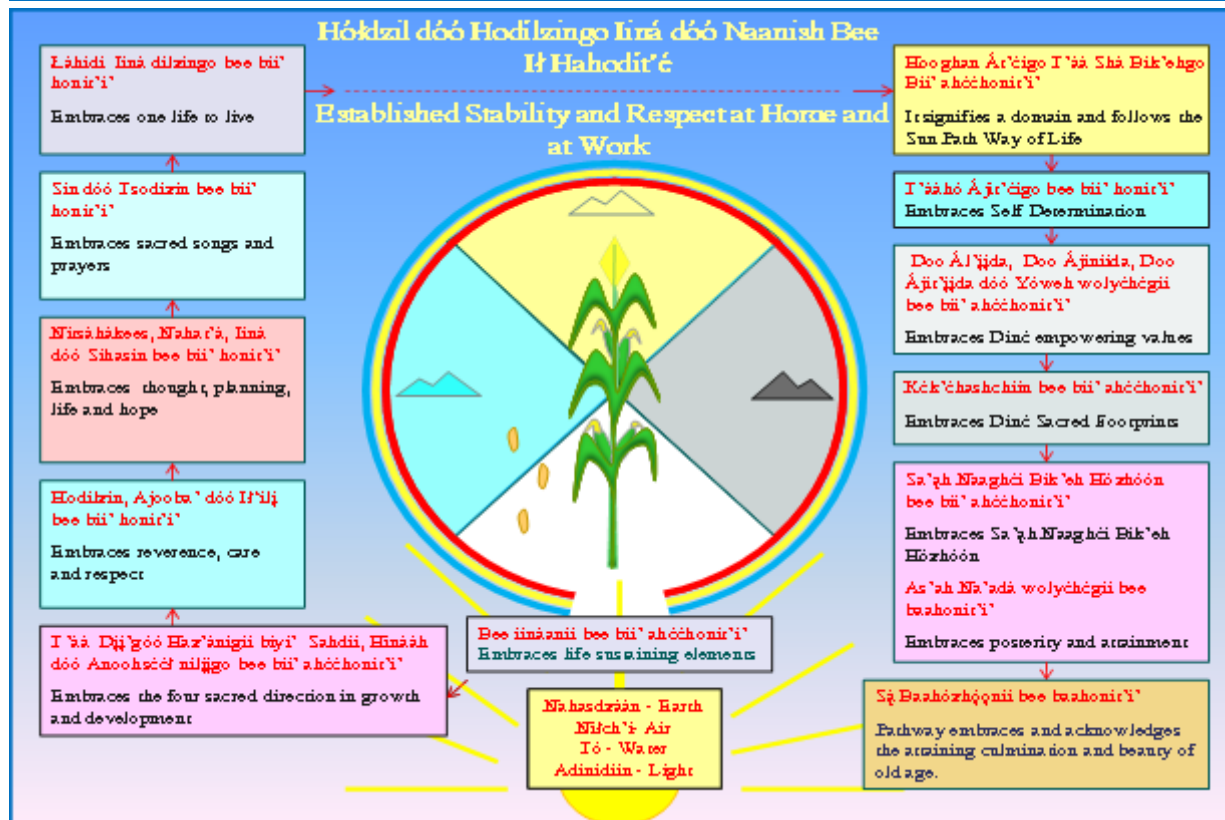
Figure Six



**Náhooqosjigo**

Náhooqosjigo éí Dibéntsaa Bááshzhinii dóó chahatheel bee bil hahodít'éigo Diné yiyí'jii' yee sihdindzingo biirsáhakees dóó bitsodizin nahaadeel dóó diits'a'. Haaikaa'dáá' yaah tsídeezkééz dóó yaah tsodoolzinée; nihodeet'iizh biyijii' bi nahat'a' áyilaayéé; nihootsoi biyijii' be'liina' yee hajooba'iiniizíí dóó áyilaayéé bideenaádéé' a'ídeel ya'á'chégíí; ats'lis dóó antsékees ya'á'chégíí bee bik'íhojisdi'go yee íinízin dóó yaantsékoós. Bááshzhinii éí biní'iz niljídóó nááynbiihgo yee tsodilzín.

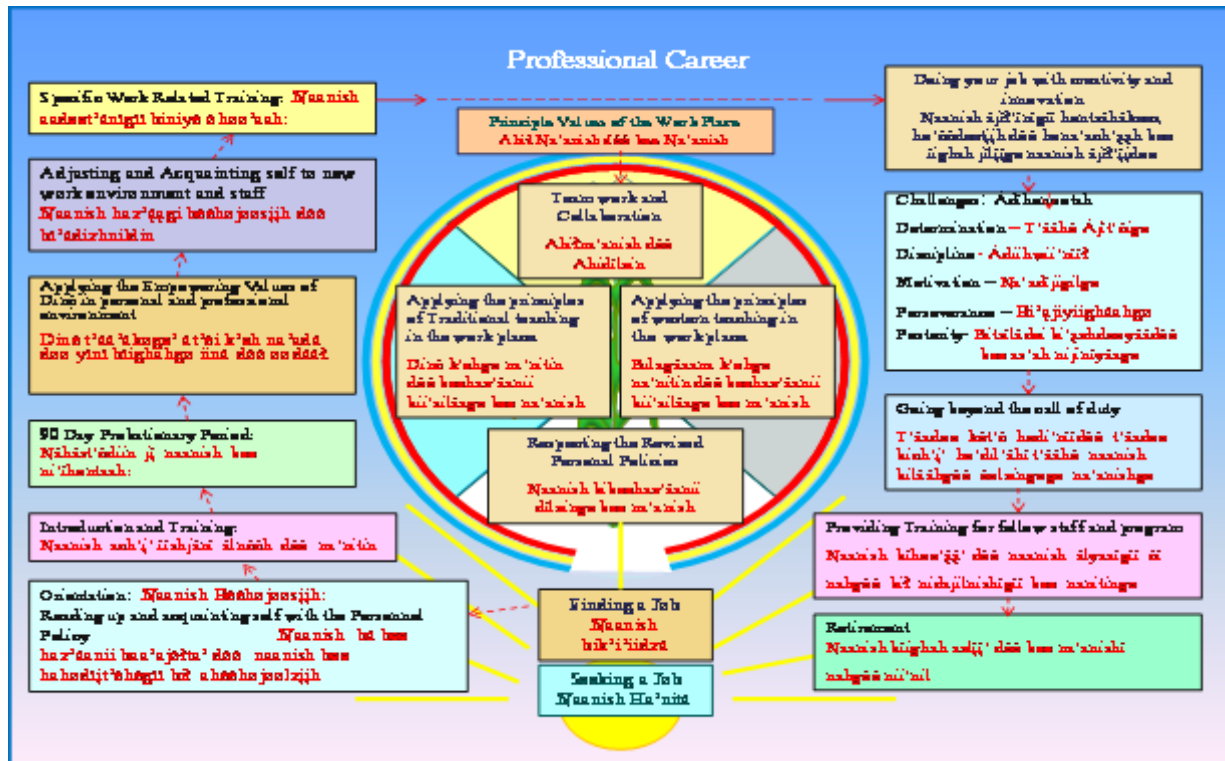
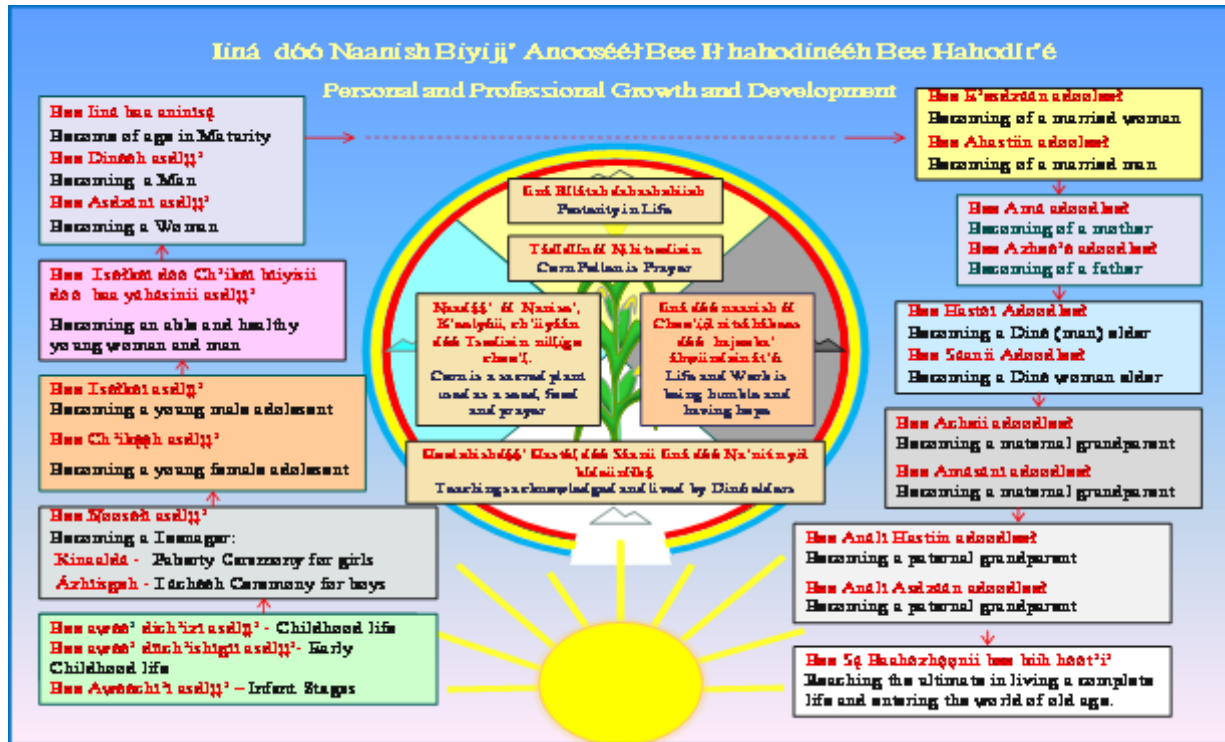
Diné people reflect and evaluate themselves by reflecting on their lives by going through each of the four directions starting with the early morning dawn in thought processes, their daily planning, living their lives, and finally, a positive outcome and accomplishment at the end of the day; in hopes that something was gained or achieved in life.





# JUDICIAL BRANCH OF THE NAVAJO NATION EMPLOYEE POLICIES AND PROCEDURES

## APPENDIX J:



**JUDICIAL BRANCH OF THE NAVAJO NATION  
EMPLOYEE POLICIES AND PROCEDURES**

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**APPENDIX K:**

**EMPLOYEE RECEIPT AND ACKNOWLEDGEMENT**

All Judicial Branch employees are bound by the Employee's Policies and Procedures. By signing below I acknowledge receiving a copy of this EPP and read & understand its content. The signed acknowledgement shall be maintained in the employee's official personnel file.

No district court or department may make local rule that deviate or conflict with the Employee's Policies and Procedures.

**ACKNOWLEDGEMENT SIGNATURE(S)**

\_\_\_\_\_  
**Print Name & Signature of Employee**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Print Name & Signature of Immediate Supervisor**

\_\_\_\_\_  
**Date**

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**ADDENDUM A**

**Section 46: Order of Layoff:  
Temporary, Introductory and Permanent Employees**

This addendum supplements Section 46: Reduction in Force, in the EPP.<sup>9</sup>

**A. Definitions**

“Business Unit” means the General Fund or PL638 account number assigned to a program within the Judicial Branch by the Office of the Controller, and maintained in the FMIS for financial budgeting and accounting purposes. Budget development and administration in the FMIS are maintained within the assigned business unit number.

“Program” in this section generally means business unit.

“Program Manager” means the designated individual with responsibility for, and authority to manage the program and accomplish program objectives. The program manager for each judicial district court shall mean the Court Administrator. In the Administrative Offices of the Courts, which is comprised of several Offices, program manager shall mean the supervisor of each of those Offices.

**B. Budgetary Control Unit**

Position classifications for layoff purposes shall be grouped by established budgetary control units within the Judicial Branch, each characterized by a General Fund or PL93-638 Business Unit Number in the FMIS system. At this time, each business unit is already its own “region” for administrative purposes, responsible for its own activities and in control of its own allocated finances.

**C. Distributed Decision-Making**

In keeping with regionalization, layoffs for purposes of reduction in force shall be decided by program managers after lack of work, lack of funds, or necessity for reorganization has been determined at the branch level. This kind of decentralized decision-making requires program managers to work together in a horizontal organizational structure in order to negotiate layoffs within their regions. Transfer of employees within or between budgetary control units in the same or different position classification for which they are qualified is a negotiation option, provided the affected employees voluntarily choose to transfer.

Once the program manager(s) makes the layoff or transfer decision, the program manager(s) shall submit the decision to the Human Resources Director for ultimate approval and issuance of the layoff or transfer notice. In the event the Human Resources Director is unavailable due to illness, conflict, or any other reason, ultimate approval shall be made by the Chief Justice.

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<sup>9</sup> No part of this addendum shall be taken as applicable to Section 35: Classification Plan.

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**D. Order of Layoff**

1. The preliminary order of layoff shall be as follows:
  - First, temporary and introductory employees regardless of class or region; and
  - Last, permanent employees.
  
2. The order of layoff among permanent employees shall be within identified classifications by region as follows:
  - First, employees lacking necessary qualifications for that classification (e.g., employees who have not obtained the necessary licensure or training as promised when they were hired).
  - Second, Non-Navajos determined by order of applicable preferences and merit among non-Navajos.
  - Third, non-Navajo spouses of Navajos who have resided on the Navajo Nation for at least one year, determined by order of applicable preferences and merit within the spousal grouping.
  - Fourth, Navajos, determined by order of applicable preferences and merit.
  
3. The order of layoff among remaining Navajo permanent employees in a regional classification, or where the pool of employees in a regional classification is exclusively Navajo, shall be first by the least qualified of this grouping by order of applicable preferences and merit in a regional classification.

**E. Qualifications for Layoff Purposes**

For layoff purposes, “qualified” means merit and competency in relation to program need. The following factors may be used for this determination:

- *Skills, Training and Education.* Skills, special skills, education, additional education, and training.
- *Performance.* A comparison of performance reviews, recognized exceptional performance, performance improvement plans, discipline, attendance.
- *Veteran’s Preference.* Veteran’s preference is a tie-breaker to the extent that employees are otherwise equal in merit and competency.
- *Seniority Preference.* Seniority preference is a tie-breaker to the extent that employees are otherwise equal in merit and competency. Where there are competing seniority and veteran’s preferences, current performance evaluations shall be used.

**F. Calculating Seniority Preference**

Seniority is calculated for continuous employment from the date an employee within the Judicial Branch obtains regular employee status in the current classification regardless of region served. Previous employment in other classifications shall not count toward the seniority preference. Employment as a temporary or introductory employee shall not be counted. Time spent on leave

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under the Family Medical Leave Act or for military service shall count toward the seniority preference.

**G. Veterans Preference**

Veteran's preference may be asserted by any veteran of the United States Armed Forces who is honorably discharged following active service. Among veterans, the veteran's preference set forth at Section VXIX of the Policies Manual of the Navajo Nation Department of Personnel Management is adopted for layoff purposes.

**H. Layoff or Transfer Notice**

The layoff or transfer notice shall be given to the affected employee by the program manager.<sup>10</sup>

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<sup>10</sup> Note that pursuant to Section C of this Addendum, the layoff or transfer notice must be issued by the Human Resources Director.