

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION



LEGISLATION NO: 0305-19

SPONSOR: Pernell Halona

TITLE: An Action Relating To Health, Education and Human Services; Approving Navajo Nation Indian Education Committee Policies under the Johnson-O'Malley Program

Date posted: October 3, 2019 at 6:06 PM

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0305-19

DATE: October 1, 2019

TITLE OF RESOLUTION: AN ACTION RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES; APPROVING NAVAJO NATION INDIAN EDUCATION COMMITTEE POLICIES UNDER THE JOHNSON-O'MALLEY PROGRAM

PURPOSE: This proposed resolution, if approved will adopt the *Navajo Nation Indian Education Committee Policies* under the Johnson-O'Malley Program.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

5-DAY BILL HOLD PERIOD: Amish

Website Posting Time/Date: _____


Posting End Date: 10-8-19

Eligible for Action: 10-9-19

PROPOSED STANDING COMMITTEE RESOLUTION

24th NAVAJO NATION COUNCIL -- First, 2019

INTRODUCED BY



(Prime Sponsor)

TRACKING NO. 0305-19

AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES; APPROVING NAVAJO NATION INDIAN EDUCATION COMMITTEE POLICIES UNDER THE JOHNSON-O'MALLEY PROGRAM

BE IT ENACTED:

SECTION ONE. AUTHORITY

The Health, Education and Human Services Committee (HEHSC) is a standing committee of the Navajo Nation Council. It has the authority to "establish Navajo Nation policy, promulgate rules and regulations governing health, social services, education, human services and general government services of the Navajo Nation and its tribal organizations, entities, and enterprises." 2 N.N.C. §401(B)(1).

SECTION TWO. FINDINGS

A. The Johnson-O'Malley Act of 1934 authorizes contracts for the education of eligible Indian students enrolled in public schools and previously private schools. See. <https://www.bic.edu/JOM>. This local program is operated under an educational plan approved by the Bureau of Indian Education, which contains educational objectives to

1 address the needs of the eligible American Indian and Alaska Native students. *Id.* See also,
2 *Johnson-O'Malley Supplemental Indian Education Program Modernization Act*, Public Law
3 115-404, December 31, 2018.

4 B. Programs under Johnson O'Malley may include culture, language, academics and dropout
5 prevention. See, <https://www.bie.edu/JOA/>.

6 C. Public school districts may receive funds under Johnson-O'Malley, provided Indian
7 Education Committees are established (among other requirements). See,
8 <https://www.bie.edu/JOA/>. Such committees, among other functions, approve supplementary
9 support programs that benefit American Indian and Alaska Native students. *Id.*

10 D. It is in the best interests of the Navajo Nation, as well as public schools eligible for
11 Johnson-O'Malley funds, that the Navajo Nation adopt *Indian Education Committee*
12 *Policies*. Among other purposes, the policies will ensure that Johnson-O'Malley funds are
13 used for supplemental education programs designed to meet the special and unique
14 educational needs of eligible Indian students at public schools under the program.

15
16 **SECTION THREE. APPROVING INDIAN EDUCATION COMMITTEE POLICIES**

17 The Navajo Nation hereby approves the *Navajo Nation Indian Education Committee*
18 *Policies* under the Johnson-O'Malley Program, marked as Exhibit A.

1
2
3 **The Navajo Nation**
4 **Johnson-O'Malley Indian Education Committee Policy**

5 **I. Purpose and Scope**

- 6 a. This policy will ensure that JOHNSON-O'MALLEY PROGRAM subcontracts which
7 are entered into between the Navajo Nation (Contractor) and public schools
8 (Subcontractor) to use federal funds for supplemental education programs are designed
9 to meet the special and unique educational needs of eligible Indian students attending
10 public schools.
- 11 b. The Subcontractor shall establish an Indian Education Committee ("IEC") pursuant to
12 this policy and 25 C.F.R. § 273.15. The Subcontractor in consultation with the IEC
13 will plan and develop an educational plan to be submitted to the Contractor for
14 approval.
- 15 c. This policy shall apply to all JOHNSON-O'MALLEY PROGRAM subcontracts
16 entered into between the Contractor and the Subcontractor.
- 17 d. If a conflict arises between this policy and the Federal statute 25 U.S.C. § 5342 to
18 5347 or regulations 25 C.F.R. § 273.1 et. seq., the Federal statute or regulations will
19 control.

20
21 **II. Establishment of IEC**

- 22 a. All JOM Subcontracts shall comply with 25 U.S.C. § 5342 to 5347 and 25 C.F.R. §
23 273.1 et. seq. Each IEC shall establish procedures and bylaws under which the
24 committee shall serve in accordance with the JOM laws and regulations, this policy,
25 and with the Subcontractor's bylaws, in that order.
- 26 b. All JOM Programs or subcontractors shall have an IEC as set forth below:
- 27 i. An IEC elected from among parents of eligible Indian children attending their
28 respective school districts, including grandparents designated as legal
29 guardians and persons acting in loco parentis. For purposes of this policy,
30 "Loco parentis" shall mean any parent, including non-Native American

1 parents, legal guardian, or extended family/clan member who is responsible
2 for a child or student's welfare on a daily basis. A person acting in loco
3 parentis must provide legal documentation demonstrating their parental
4 responsibilities and status.

5 1. The IEC may be elected to represent a community or chapter where
6 students and parents reside. A Chapter/community resolution is
7 recommended in order to demonstrate that an election was conducted
8 at the local level; or

9 2. The IEC may be elected from the school site. A document issued by
10 the school certifying that an election took place at the school site is
11 recommended.

12 ii. A local Indian committee established pursuant to section 305(b)(2)(B)(ii) of
13 the Act of January 23, 1972 (86 Stat. 235) and existing prior to January 4,
14 1975; or

15 iii. An Indian Advisory school board or IEC established pursuant to the Johnson
16 O'Malley Act and existing prior to January 4, 1975.

17 c. The IEC will function in a decision-making capacity and fully participate in the JOM
18 Program in coordination with the elected school board and the school administration
19 pursuant to 25 C.F.R. §273.16.

21 **III. IEC Membership**

22 a. IEC elections and membership are subject to local school bylaws, as long as they are
23 in compliance with 25 U.S.C. § 5342 to 5347, 25 C.F.R. § 273.1 et. seq., and this
24 policy, as set forth above.

25 b. IEC members are bound to promote the specialized and unique educational needs of
26 eligible Indian students. Evidence of IEC members undermining the efficacy of this
27 mandate, including through political or financial motivations, may be cause for
28 removal from the IEC.

- i. IECs shall consist of a minimum of three (3) members. IEC members are encouraged to each select an alternate to attend meetings in case of his/her absence.
- ii. IEC members are required to have a child enrolled at the school at all times. If a member's child leaves the school, that member may no longer serve on the committee effective immediately upon the child's departure.
- iii. BIA and other federal employees may serve as IEC members provided a proper clearance or waiver has been authorized and approved by the employee's respective BIA Personnel office.
- iv. School administrators and school officials are prohibited from serving as IEC members.
- v. IEC members may represent more than one school district where his/her children attend school, subject to the local school's bylaws.
- vi. IEC membership is limited to one term and is not to exceed 4 years in total.

IV. Compensation

Compensation for IEC participation at duly called meetings shall not exceed the subcontractor's reimbursement policy and any applicable federal travel requirements. Any payment for stipends and/or reimbursement shall be subject to the availability of funds.

V. Amendments

The Health, Education and Human Services Committee of the Navajo Nation Council shall have the authority to approve amendments to this policy pursuant to 2 N.N.C. §401(B)(1) upon the recommendation of the Department of Diné Education and in consultation with the IEC.

VI. Effective Date

This policy shall become effective upon approval by the Health, Education and Human Services Committee of the Navajo Nation Council.