

JUDICIAL BRANCH OF THE NAVAJO NATION

Eleanor Shirley, Associate Justice

HERB YAZZIE
Chief Justice of the Navajo Nation



Supreme Court

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CHIEF JUSTICE OF THE NAVAJO NATION

ADMINISTRATIVE ORDER 30-2013

IN THE MATTER OF A WRITTEN POLICY SETTING FORTH THE ORDER OF LAYOFFS DURING REDUCTION IN FORCE

The Judicial Branch Employment Policies and Procedures (EPP) was approved on November 5, 2010 by the Judiciary Committee, Resolution No. JCN-10-10, as required by then 2 N.N.C. §574(L). The EPP provided that future amendments would be recommended to the Judiciary Committee for amendment. However, in subsequent amendments to Title II enacted by Navajo Nation Council Resolution No. CAP-10-11, 2 N.N.C. §574(L) was over-stricken. Additionally, the Judiciary Committee was disestablished and the Law and Order Committee put in its place that now serves as the oversight committee not only for the Judicial Branch, but all administrative Tribunals and the Department of Justice. While the amendments require the Law & Order Committee to periodically review the overall function of the programs over which it has oversight, Committee approval over internal branch policies and procedures is no longer required.

It has come to my attention that the EPP lacks a written policy on the order of layoffs in the event of a reduction in force. It is essential that such a written policy be in place to assist in future decision-making, to help maintain consistency of our policies by future judicial administrations, and to clarify expectations of branch personnel.

Therefore, it is hereby ORDERED that the attached "Addendum A to Section 46: Order of Layoff: Temporary, Introductory and Permanent Employees" be approved. The Addendum simply confirms existing practices already in place, while clarifying preferences. It supplements the relevant section in the EPP, effective immediately.

Dated this 18th day of July, 2013.

A handwritten signature in cursive script, reading "Herb Yazzie", is written over a horizontal line.
CHIEF JUSTICE OF THE NAVAJO NATION

JUDICIAL BRANCH EMPLOYEE POLICIES & PROCEDURES

ADDENDUM A

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

This addendum supplements Section 46: Reduction in Force, in the EPP.¹

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

¹ No part of this addendum shall be taken as applicable to Section 35: Classification Plan.

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.

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

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.