

JUDICIAL BRANCH OF THE NAVAJO NATION



Affirmative Action Plan

Navajo Preference in Employment Act

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AFFIRMATIVE ACTION PLAN

EXECUTIVE SUMMARY

This Affirmative Action Plan (AAP) is developed in accordance with the Navajo Preference in Employment Act, 15 N.N.C. §604, which states that “all employers doing business within the territorial jurisdiction of the Navajo Nation or engaged in any contract with the Navajo Nation shall provide preference in employment to Navajo tribal members as specified in an affirmative action plan and timetable for all phases of employment to achieve the Navajo Nation goal of employing Navajos in all job classifications including supervisory and management positions.”

Further, this plan complies with the November 22, 2002 Resolution of the Human Services Committee of the Navajo Nation Council pertaining to Affirmative Action Plans.

PURPOSE

The purpose of this Affirmative Action Plan is to ensure compliance with the Navajo Preference in Employment Act (NPEA), while acting in the best interest of the Judicial Branch of the Navajo Nation and providing the best possible employment opportunity for the people of the Navajo Nation.

POLICY STATEMENT

The position of the Judicial Branch of the Navajo Nation (hereinafter “Branch”) on the issue of affirmative action is as follows: the Branch shall seek the professional services of competent Navajo professionals, administrators and support personnel to best serve the Navajo People. The Branch’s decisions and personnel actions shall be based on the principles, intent and purposes of the NPEA and the needs of the Branch.

The Branch shall give preference to Navajo personnel in providing employment, training opportunities and in employment in supervisory and management positions, subject to the needs of the Branch and other requirements imposed upon the Branch by 7 N.N.C. §401, contract/grant and other applicable regulations and laws.

The Director of Human Resources (DHR) of the Judicial Branch of the Navajo Nation shall be directly responsible for compliance with the AAP, to include but not limited to, all reporting and monitoring functions. The DHR may delegate specific responsibilities pursuant to a written operational plan which shall be attached to this AAP.

DEFINITIONS

Under-Utilization. Is defined as having fewer Navajos in any position or classification that would be expected of the availability of qualified Navajo workers.

Under-Representation. Is a situation in which the percentage of Navajos within a given specific position or a class of positions, is lower than the corresponding percentage in the available labor market.

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EXECUTIVE MANAGEMENT OFFICIAL

The Director of Human Resources of the Judicial Branch of the Navajo Nation is the “Executive Management Official” (EMO) directly responsible for compliance with the AAP, including but not limited to, reporting and monitoring responsibilities.

The DHR of the Branch has the requisite authority to implement and monitor the AAP subject to the direction and oversight of the Chief Justice of the Navajo Nation as required by 7 N.N.C. §371 and the Judicial Branch Employee Policies and Procedures, November 8, 2010, JCN-10-10 (JBEPP).

The above identified management official shall be responsible for implementing the AAP and reporting to the Office of Navajo Labor Relations (ONLR), as required, regarding matters related to the AAP.

The EMO’s responsibilities include but are not limited to:

1. Developing AAP, policy statements, goals and objectives, internal and external communication procedures;
2. Identifying problems and implementing corrective actions for problems in providing Navajo Preference and in compliance with the JBEPP;
3. Determining and implementing Corrective Action Plans identified above in cooperation with appropriate supervisors and other relevant staff;
4. Designing and implementing audit and reporting systems that will measure the effectiveness of the employer’s AAP, indicate the need for remedial action, and determine the degree to which the employer’s goals and objective have been met; and
5. Serve as a liaison between the Branch and ONLR.

GOALS AND TIMELINES

The Branch shall develop goals and timelines for implementation of the AAP and compliance with the JBEPP that are attainable based on the analysis of the following:

1. All positions/classifications currently held by non-Navajos;
2. Qualifications required by the positions/classifications;
3. Timelines for Navajo workers to obtain qualifications for positions/classifications held by non-Navajos; and
4. Identification of internal and external resources which will be utilized to implement the plan.

REPORTING

The Branch shall file its AAP and Workforce Analysis with the Office of Navajo Labor Relations as required by law.

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REQUESTS FOR INFORMATION

Any requests for additional information shall be made directly to the EMO. Records protected by Federal or Navajo law will be released or protected from release as required by those laws.

OUTREACH AND RECRUITMENT

The following shall apply in the outreach and recruitment for vacant positions established within the Judicial Branch of the Navajo Nation.

1. The Branch shall implement a positive outreach and recruitment program for any job opening;
2. The Branch shall advertise and announce new and vacant positions in at least one newspaper serving the Navajo Nation for a minimum of ten (10) calendar days;
3. All such announcements shall include and specify a Navajo Preference in Employment Act of 1990;
4. The Branch shall post in a conspicuous place on its premises a Navajo preference policy notice prepared by the ONLR. When contracting with Federal or State Governments or one of their entities, the Branch will include provisions for Navajo preference as set forth and subject to the limits stated in 15 N.N.C. §604(B)(4).
5. The Branch shall also utilize Navajo Nation employment resources and job services for employee recruitment and referrals, except as limited by 15 N.N.C. §604(B)(5).

POSITION DESCRIPTIONS

In seeking professional, specialized and support personnel, the Branch shall include within the position description, as a preferred qualification, a knowledge and familiarity with the Navajo language, culture and people.

The Branch shall use non-discriminatory job qualifications and selection criteria for employment. All necessary qualifications must be included and made available to applicants.

APPLICATIONS

The Branch has a standard application form for employment that is attached as APPENDIX "A". Applications are available upon request at the Judicial Branch, Office of Human Resources, online at www.navajocourts.org.

SELECTION

Qualifying applicants will be afforded the preferences set forth in 15 N.N.C. §604 and other applicable laws and regulations and amendments and modifications of the above referenced law.

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Employment decisions shall be in compliance with the JBEPP and consistent with the above referenced Navajo employment law.

ADVERSE ACTIONS

The Branch shall provide a written notification that cites the *just cause* for any adverse action against an employee.

CROSS-CULTURAL PROGRAM

The Branch shall develop and implement a cross-cultural program that primarily focuses on the education of non-Navajo employees, including management and supervisory personnel, regarding the cultural and religious traditions or beliefs of Navajos utilizing the expertise of the Navajo Nation Peacemaking Program.

The program shall demonstrate the relations of Navajo cultural and religious traditions or beliefs to the Branch's employment policies and procedures. The Branch shall develop employment policies and procedures which accommodate such traditions and beliefs. This program shall involve the substantial and continual participation of the Branch's Navajo employees.

WORKING ENVIRONMENT

The Branch shall maintain a safe and clean working environment and provide employment conditions that are free of prejudice, intimidation and harassment.

FRINGE BENEFITS

To the degree possible and feasible, fringe benefits shall accommodate and recognize Navajo traditions and beliefs and shall not discriminate based on those grounds subject to limitations noted above.

WORKFORCE ANALYSIS

The Branch shall provide a Workforce Analysis at the end of each fiscal year in September. The analysis shall contain a listing of each position as it appears on the Branch's payroll records ranked from the lowest to the highest paid within each department or organizational unit including mid- and top-management.

Lines of progression for each unit or department must be identified through which employees move upward. Where there are no formal progression lines or usual promotional sequences, job titles shall be listed in order by wages or salary ranges. An analysis of whether any Navajos are being under-utilized shall be provided.

The Branch shall conduct an in-depth workforce analysis each year that shall contain:

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1. Current Employees – The number of Navajos and non-Navajo employees by position or classification.
2. Applicants – The number of Navajo and non-Navajo applicants for each open position.
3. Selection – The process for recruiting, drafting job descriptions, interview criteria, written tests and final selection.
4. Other Actions – The number of Navajo and non-Navajo employees who were involved in employment action such as retention, promotion, transfer or who were affected by a reduction in force or recall.
5. Training – A description of any training provided to employees including apprenticeship programs and any other informal or formal training provided.

CORRECTIVE ACTION PLANS

The Branch will draft a Corrective Action Plan (CAP) if the Branch has been found to have violated the Navajo Preference in Employment Act and/or to correct the following:

1. An under-utilization of Navajo employees;
2. Vertical movement of Navajos occurring at a lesser rate than that of non-Navajos;
3. A selection process which eliminates a significantly higher percentage of Navajos than non-Navajos;
4. Position descriptions which do not accurately relate to actual duties and functions;
5. Testing procedures or forms that have an adverse impact at a higher rate on Navajos than non-Navajos;
6. A lack of support of the Branch's AAP by employees, supervisors or managers;
7. A failure to adopt formal criteria for evaluating the effectiveness of the affirmative action program.

GRIEVANCES/APPEALS

The Branch shall continue to provide due process procedures for employee grievances and appeals, including but not limited to, grievances relative to the application of the AAP.

Employees shall exhaust these administrative remedies prior to taking further or other action relative to such concerns.

SANCTIONS

A violation or failure to comply with these policies shall be grounds for disciplinary action pursuant to the JBEPP Table of Penalties No. 38, Insubordination, suspension and including termination of employment.