

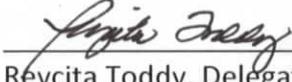


THE NAVAJO NATION

RUSSELL BEGAYE PRESIDENT
JONATHAN NEZ VICE PRESIDENT

MEMORANDUM

TO : DIVISION DIRECTORS, DEPARTMENT AND PROGRAM MANAGERS
EXECUTIVE AND LEGISLATIVE BRANCHES

FROM : 
Reycita Toddy, Delegated Human Resources Director
Department of Personnel Management

DATE : November 9, 2016

SUBJECT: EQUIVALENCY CLAUSE

Pursuant to the Health, Education and Human Services Committee (HEHSC), Resolution No: HEHSCS-14-16, amending the Navajo Nation Personnel Policies Manual (NNPPM) programs can now revise their minimum and preferred qualifications to include an equivalency clause.

To ensure consistent application of the intent of the amendment, the Department of Personnel Management (DPM) and the Division of Human Resources requested an interpretation from the Department of Justice. (See attached). Based on the interpretation, programs can decide which positions may or may not include an equivalency clause.

However, there are certain positions where an equivalency clause is inappropriate and where a degree, licensure or certification is required to hold a position, such as Attorney, Social Worker, Accountant and Clinical Specialist.

The DPM will use the following process to expedite the implementation of the amendment:

- All programs will utilize the attached 2 page Position Classification Questionnaire (PCQ) to define the equivalency clause. This form is also available on DPM's website.
- Programs are to complete only those areas with the "Red" text.
- The information provided on the PCQ will be utilized to revise the qualifications for positions that may include an equivalency clause.
- The PCQs must be submitted to DPM on or before November 18, 2016.
- Upon completion of revision, DPM will issue a revised class specification for implementation of the equivalency clause.

If programs determine that an equivalency clause is inappropriate, the current qualifications will remain in effect.

The Classification and Pay Section staff are available to meet with programs to determine which class specifications can be changed immediately, which will require more work, and which will need to be handled on a case by case basis.

Please contact Traci Shortey at 871-7419 or Charlotte Bigthumb at 871-6580 to schedule a meeting. Should you have any questions, please contact me directly at 871-7772. Thank you.

XC: Honorable Russell Begaye, President OPVP
 Honorable Jonathan Nez, Vice President, OPVP
 Honorable LoRenzo Bates, Speaker, LB
 Honorable Jonathan Hale, Chairperson, HEHSC
 Arbin Mitchell, Chief of Staff, OPVP
 Peterson Zah, Executive Staff Assistant, OPVP
 LaVonne Tsosie, Division Director, DHR
 File



NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

Ethel B. Branch
Attorney General

Rodgerick T. Begay
Acting Deputy Attorney General

MEMORANDUM

TO: LaVonne Tsosie, Director
Division of Human Resources

FROM: 
Paul Spruhan, Assistant Attorney General
Litigation and Employment Unit
Navajo Nation Department of Justice

DATE: October 31, 2016

SUBJECT: **Effect of Recent HEHSC Resolution on Equivalency Clause**

At your request, as communicated by Reycita Toddy, I am putting in writing my interpretation of Resolution No. HEHSCS-14-16, recently passed by the Health, Education, and Human Services Committee of the Navajo Nation Council. That resolution deletes references to equivalency clauses in the Personnel Policies Manual (PPM). You have asked what the effect is of that resolution.

In passing the resolution, HEHSC intended to eliminate the prohibition on the use of equivalency clauses in qualifications used in job positions. In 2013, HEHSC amended the PPM to bar programs from using equivalency clauses in their job descriptions. HEHSC defined "equivalency clause" as "automatically making a college degree (or degrees) the equivalency of a certain number of years of experience (and vice-versa)." Resolution No. HEHSCMY-017-13.

An example of an equivalency clause is:

Minimum qualification: a bachelor's degree OR three years of experience.

In this example, a college degree is equivalent to a number of years of experience, and somebody with only a bachelor's degree and someone only with three years of experience would both be deemed minimally qualified for the position.

This is an example of a qualification that does not have an equivalency clause:

Minimum qualification: A Master's degree AND four years of relevant experience

Memorandum to: LaVonne Tsosie

RE: Effect of Recent HEHSC Resolution on Equivalency Clause

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In this example, the years of experience requirement is not being used as an equivalent for the degree; the years of experience is an additional requirement along with the degree. This type of qualification was allowed under the PPM even when equivalency clauses could not be used.

Before the 2013 resolution, equivalency clauses were being used in job qualifications, though no section of the PPM directly approved or prohibited them. Based on the belief that this was preventing college-educated Navajos from being hired, HEHSC prohibited the use of such equivalency clauses.

As discussed in the 2016 resolution, it was believed that the 2013 prohibition on equivalency clauses was actually preventing hiring, causing long vacancies in a number of positions. See Resolution No. HEHSC-14-16, Be it Enacted Clause F (stating provisions in PPM on equivalency clauses "ha[ve] caused delays in hiring for numerous positions throughout the Navajo Nation"). Based on that belief, HEHSC lifted the bar on equivalency clauses by deleting the equivalency clause prohibition language in the Manual.

Therefore, the PPM reads as it did before the ban on equivalency clauses, neither authorizing them nor prohibiting them. However, by deleting the language prohibiting equivalency clauses, HEHSC clearly believes equivalency clauses are now allowed.

The resolution did keep in the sections requiring programs to create minimum and preferred qualifications. That section can be read to allow equivalency clauses, as it states programs may use "a certain number of years of experience, a specific educational requirement, or both." Resolution No. HEHSC-14-16 (emphasis added). By deleting the bar on equivalency clauses, the reference to "both" can now include a degree or years of experience as minimum or preferred qualifications.

Based on the above, programs can amend their minimum and preferred qualifications to use equivalency clauses. Importantly, they are not required to do so, but have the option if they so choose. Also, it is important to note that there may be certain positions where equivalency clauses are inappropriate, such as positions where degrees, certifications, or licenses are required to hold a position, such as attorneys or advocates for Navajo DOJ, or bus drivers for Navajo Transit. The programs can decide what positions require such credentials, and not use equivalency clauses for those positions. Further, programs can decide certain positions should require a degree, and not change the qualifications to allow for years of experience to be the equivalent of that degree. Regardless, if programs do nothing to change their qualifications, the current qualifications that do not use equivalency clauses remain in effect unless and until the programs decide to amend the qualifications for their positions.

If you have any questions or concerns, please contact me at your convenience.

xc: Reycita Toddy
Human Resources Director
Department of Personnel Management

POSITION CLASSIFICATION QUESTIONNAIRE
DEPARTMENT OF PERSONNEL MANAGEMENT
FOR EQUIVALENCY CLAUSE ONLY

Date: _____

General Information - Fill in all information requested below.

Position Number: _____ Current Classification/Position Title: _____

Division Number: _____ Division Name: _____

Dept. Number: _____ Department Name: _____

Department Phone No.: _____ Fax No.: _____

Type of Classification Requested: E-mail Address: _____

- Classification of New Position Revision
- Reclassification of Existing Position

Immediate Supervisor's Recommendation: **Revised Minimum Qualification per HEHSCS-14-16 amending the NNPPM to include an Equivalency Clause.**

Type of Position: Regular Status

Business Unit No.: _____ Worksite Location: _____

I (DO) (DO NOT) RECOMMEND THIS RECLASSIFICATION AND (DO) (DO NOT) CERTIFY THAT FUNDS ARE AVAILABLE TO FINANCE INCREASED COST(S) FOR THIS FISCAL YEAR FOR THE NEXT FISCAL YEAR WITHOUT ADDITIONAL LEGISLATIVE APPROPRIATIONS.

PCQs MUST HAVE A CURRENT APPROVED ORGANIZATIONAL CHART ATTACHED WHICH DEPICTS ALL POSITIONS WITHIN THE PROGRAM WITH LINES OF AUTHORITY AND OPERATIONS. THIS IS IMPORTANT IN DETERMINING THE RELATIONSHIP OF THE POSITION TO OTHERS WITHIN THE ORGANIZATION.

I CERTIFY THAT AN APPROVED ORGANIZATIONAL CHART IS ATTACHED.

Signature of Department/Program Manager

Date

Name of Department/Program Manager (Print)

FOR DEPARTMENT OF PERSONNEL MANAGEMENT USE ONLY

No change - See attached report

Allocated to: _____

Class Code: _____ Grade: _____ Effective Date: _____

Overtime Status: Exempt Non-Exempt OT Status Change: Yes No

Other actions or comments: _____

Signature of Authorized Human Resource Analyst

Date

CERTIFICATE OF IMMEDIATE SUPERVISOR

Indicate below:

- Position is considered a key position
- Position is not a key position
- I concur entirely with employee's statement
- See attached memo for comments
- Contact me for further information, if necessary, at _____ (phone number)

What do you consider to be the *minimum qualifications* for this position:

Education: _____

Experience: (type and years) _____

Equivalency: (define) _____

Special Training: (if any) _____

Special skills: (license or certification) _____

What do you consider to be the *preferred qualifications* for this position:

Education: _____

Experience: (type and years) _____

Immediate Supervisor's Signature

Classified Title