



MEMORANDUM

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

FROM : Bernadette Bernally
Bernadette Bernally, Human Resources Director
Department of Personnel Management

DATE : October 21, 2013

SUBJECT: **RECINDING MEMORANDUM**

This memorandum is to inform all that, this is "official" notification that I am rescinding the following memorandums effective immediately:

- Memorandum dated October 8, 2013;
SUBJECT: TEMPORARY EMPLOYEES (Attached)

Temporary employees may be extended beyond October 31, 2013. Programs will need to submit PAF's to effectuate these changes immediately.

- Memorandum dated October 9, 2013;
SUBJECT: RELEASE OF APPLICATIONS AND ASSESSMENTS (Attached)

Per the Department of Justice (DOJ) memorandum dated October 17, 2013, HR Division representatives can conduct Qualification Assessments utilizing the equivalency clause. The DOJ memorandum clarified that the minimum and preferred qualifications does not effect existing positions.

Please consult with Department of Personnel Management (DPM), should you have any questions. Thank You.

C-O-N-C-U-R-R-E-N-C-E:

Thomas E. Ranger
Thomas E. Ranger, Division Director
Division of Human Resources-Administration

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MEMORANDUM

TO : Sharon Begay-McCabe, Division Director, DSS
Frederick White, Division Director, DNR
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Clara L. Pratte, Executive Director, NNWO
Larry Curley, Division Director, NDOH
Albert Damon, Jr., Division Director, DED
John Billison, Division Director, DPS
Mark Grant, Controller, OOC

FROM : Bernadette Bernally
Bernadette Bernally, Human Resources Director
DHR/Department of Personnel Management

DATE : October 9, 2013

SUBJECT : **RELEASE OF APPLICATIONS AND ASSESSMENTS**

The Department of Personnel Management (DPM) will be releasing the applications today to Divisions that were approved for waiver under the recruitment and selection section in the Navajo Nation Personnel Policies Manual.

Although DPM is releasing the applications for closing date October 4, 2013 to participating Divisions. Divisions shall **NOT** do any assessments or make contact with any applicant until AFTER further instruction pending a legal interpretation at this point. DPM and DHR will provide further instructions after we meet with Department of Justice.

We will be seeking Department of Justice's legal interpretation on the equivalency clause as most JVA's with a closing date of October 4, 2013 did not exclude the equivalency clause prior to advertisement. These JVA's entered advertisement on September 23, 2013; prior to the full effective date of the revised Navajo Nation Personnel Policies Manual – October 1, 2013 and closed after the effective date subject to new policies.

If there are any questions you may contact DPM at extension 6330 or DHR at extension 6375. Thank You.

CONCURRENCE:
Thomas E. Ranger 10/9/13
Thomas E. Ranger, Division Director
Division of Human Resources

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DEPARTMENT OF PERSONNEL MANAGEMENT
P.O. BOX 7080, WINDOW ROCK, ARIZONA 86515
TELEPHONE: (928) 871-6330; FAX: (928) 871-6976; WEBSITE: www.dpm.navajo-nsn.gov



DPM-14-005

MEMORANDUM

TO : BRANCH DIVISION, DEPARTMENT & PROGRAM MANAGERS
EXECUTIVE AND LEGISLATIVE BRANCHES

FROM : Bernadette Bernally
Bernadette Bernally, Human Resources Director
Department of Personnel Management

DATE : October 8, 2013

SUBJECT : TEMPORARY EMPLOYEES

Please be informed that pursuant to recent amendments to the Navajo Nation Personnel Policy Manual (NNPPM) effective October 1, 2013, all temporary employees must end their current employment on or before Thursday October 31, 2013 at 5:00 p.m. Resolution HEHSCMY-017-13, stipulates that "the use of the equivalency clause is henceforth eliminated for job descriptions/classifications development by programs."

In order to comply with these amendments, programs are required to submit an updated Position Classification Questionnaire Form (PCQ) (revised) to indicate "minimum" and "preferred" qualifications for all full time regular status positions, part time regular status positions, seasonal positions and temporary positions.

Therefore, all temporary employees will end their employment on October 31, 2013. Upon receipt and approval of an updated PCQ form, applicants must be reassessed to determine if they meet the "minimum" and/or "preferred" qualifications for the temporary position.

Your assistance and cooperation will be appreciated. Please contact DPM at extension 6330 for clarifications. Thank You.

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NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

HARRISON TSOSIE
Attorney General

DANA L. BOBROFF
Deputy Attorney General

MEMORANDUM

TO: Bernadette Bernally, Human Resources Director
Reycita Toddy, HR Classification & Pay Manager
Navajo Department of Personnel Management

FROM: 
Paul W. Spruhan, Assistant Attorney General
Labor and Employment Unit
Office of the Attorney General / NNDOJ

DATE: October 17, 2013

SUBJECT: **Equivalency Clause Prohibition and Effect on Current Positions**

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DEPARTMENT OF
PERSONNEL MANAGEMENT

I am memorializing the verbal advice of the Department of Justice on the effect of recent amendments to the Personnel Policies Manual approved by the Health, Education, and Human Services Committee by Resolution No. HEHSCMY-017-13 on May 13, 2013, with an implementation date of October 1, 2013. The amendments added the following language to the Manual:

The use of the equivalency clause is henceforth eliminated for job description/classification development by programs. Equivalency Clause is defined as automatically making a college degree (or degrees) the equivalent of a certain number of years of experience (and vice-versa). Henceforth, to establish job descriptions/classifications, programs must;

1. Establish minimum qualifications for a position (whether a certain number of years of experience, a specific educational requirement or both) required as a baseline for qualification assessments; and
2. Establish preferred qualifications for a position (whether a certain number of years of experience, a specific educational requirement or both) in seeking the best qualified candidate.

Memo to Bernadette Bernally and Reycita Toddy
RE: Equivalency Clause Prohibition and Effect on Current Positions
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While it is clear the Committee intended to prohibit the use of equivalency clause going forward from the effective date of the provision, the question presented is what the effect is on existing positions, whether regular status or temporary, and whether currently occupied or vacant.

The terms "henceforth," "development," and "establishment," refer to future acts, and suggest that the equivalency clause prohibition only applies to the creation of new positions. "Henceforth" by its plain language means from now on. As the resolution itself sets the implementation date as October 1, 2013, that means from October 1st forward. Both "development" and "establishment" suggest the creation of something new, which when combined with "job description/classification" or "job descriptions/classifications" suggest the creation of new positions. Interpreted this way, in the absence of other contrary language in the provision, it is the view of the Department of Justice that the provision does not affect existing positions. Their regular or temporary status is irrelevant. Therefore regular employees currently occupying those positions that may have been hired through an equivalency clause are unaffected, as well as temporary employees. Further, it also means that existing vacant positions are unaffected, and programs may move forward to advertise and hire applicants for those existing vacant positions with an equivalency clause. In the absence of clear language stating otherwise, DOJ believes this is not only consistent with the plain language of the provision, but will cause the least confusion for all programs involved in hiring.

As you know, I have suggested to Mr. Witherspoon of the HEHSC Committee that if the current language does not clearly reflect the intent of the Committee when eliminating the equivalency clause, the Committee can amend the language to clarify its intended effect. However, prior to that amendment being approved, DOJ believes the most prudent approach to minimize confusion and possible liability for the Nation is to leave all existing positions unaffected.

If you have any questions or concerns about this memorandum, please let me know at Extension 7976.

PS/cgt/459

Xc: Honorable Jonathan Hale, Chairman
Honorable Dwight Witherspoon, Member
Health, Education, and Human Services Committee

Harrison Tsosie
Dana Bobroff
Navajo Department of Justice

Memo to Bernadette Bernally and Reycita Toddy
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Tom Ranger
Division Director
Division of Human Resources
Office of the President and Vice-President