

**7 Navajo Nation Code  
Courts and Procedure  
Chapter 3. Judicial Branch**

**Subchapter 1 – Generally**

**§ 201. Establishment; composition**

- A. ~~There is a~~ The Navajo People hereby establish the Judicial Branch of the Navajo Nation Government.
- B. The Judicial Branch of the Navajo Nation government shall consist of the District courts, the Supreme Court of the Navajo Nation, and such other courts as may be ~~created~~ establish by the ~~Navajo Nation Council~~ Navajo people, upon recommendation of the Navajo Nation Council.
- C. The Judicial Branch of the Navajo Nation shall also consist of such additional Judicial Branch divisions, departments, offices and programs that further the purposes of the courts as may be ~~created~~ established, by the Judicial Branch, through adoption of their plans of operation subject to amendment or abolishment. Such plans of operation must be confirmed by the ~~Judiciary Committee~~ Law and Order Committee of the Navajo Nation Council.

**§ 202. Seals of Courts**

The courts of the Navajo Nation shall each adopt a seal which shall be used to authenticate their respective judgments and other papers. The form of the seals and regulations for their use shall be specified by rules of courts adopted and placed in effect as provided in 7 NNC § 601.

**§ 203. Reserved**

**§ 204. Law Applicable**

- A. In all cases the courts of the Navajo Nation shall first apply applicable Navajo Nation statutory laws and regulations to resolve matters in dispute before the courts. The courts shall utilize Dine' bi beenahaz' a'anii (Navajo Traditional, Customary, Natural or Common Law) to guide the interpretation of Navajo Nation statutory laws and regulations. The courts shall also utilize Dine' bi beenahaz' a'anii whenever Navajo Nation statutes or regulations are silent on matters in dispute before the courts.
- B. To determine the appropriate utilization ~~and~~ (explanation , interpretation and application) of Dine' bi beenahaz' a'anii, the court shall request, as it deems necessary, advice from Navajo individual widely recognized as being knowledgeable about Dine' bi beenahaz' a'anii.
- C. The courts of the Navajo Nation shall apply federal laws or regulations as may be applicable.

- D. Any matters not addressed by Navajo statutory laws and regulations, Dine' bi beenahaz' a'anii or by applicable federal laws and regulations, may be decided according to comity with reference to the laws of the state in which the matter in dispute may have arisen.

**§ 205. Record of proceedings**

A. Each Court of the Navajo Nation shall keep a record of all proceedings of the court, which shall reflect the title of the case, the names of the parties, the substances of the complaint, the names and addresses of all witnesses, the date of the hearing or trial, the name of the presiding Judge, the findings of the Court or jury, and the judgment, together with any other facts or circumstances deemed of importance to the case.

B. A record of all proceedings shall be kept at the appropriate court and shall be available for public inspection unless prohibited by order of the court for good cause or by applicable laws.

**§ 206. Cooperation of Navajo Nation, federal and state employees**

A. No employee or official of the Navajo Nation, federal or state government shall obstruct, interfere with or control the functions of any Court of the Navajo Nation or attempt to influence such functions in any manner except as permitted by Navajo Nation laws or regulations or in response to a request for advice or information from the Court.

B. Navajo Nation employees, particularly those who are engaged in social service, law enforcement, health and educational work, shall assist the Court, upon its request, in the preparation and presentation of the facts in the case and in the proper disposition of the case.

**Subchapter 3. District Courts**

**§ 251. Composition**

- A. The District Courts of the Navajo Nations shall consist of judges recommended by the ~~Judiciary Committee~~ Law and Order Committee of the Navajo Nation Council, appointed by the President of the Navajo Nation, and confirmed by the Navajo Nation Council.
- B. The District Courts of the Navajo Nation shall be located in such Judicial Districts of the Navajo Nation as are developed by the Judicial Branch, approved by the ~~Judiciary~~ Law and Order Committee of the Navajo Nation Council, and provided for in the Navajo Nation operating budget.

**§ 252. [Reserved]**

**§ 253. Jurisdiction Generally**

A. The District Courts of the Navajo Nation shall have original jurisdiction over:

1. Crimes. All offenses in the Navajo Nation Criminal Code (17 N.N.C. §101 *et seq.*) whereby any person commits an offense by his or her own conduct if the conduct constituting any element of the offense or a result of such conduct occurs within the territorial jurisdiction of the Navajo Nation Courts as defined in 7 N.N.C. §254, or such other dependent Indian communities as may hereafter be determined to be under the jurisdiction of the Navajo Nation and the Courts of the Navajo Nation. The Navajo Nation Courts shall also have Jurisdiction over any member of the

Navajo Nation who commits an offense against any other member of the Navajo Nation wherever the conduct which constitutes the offense occurs.

2. Civil Causes of Action. All civil actions in which the defendant: (1) is a resident of Navajo Indian Country; or (2) has caused an action or injury to occur within the territorial jurisdiction of the Navajo Nation.

3. Miscellaneous. All other matters provided by Navajo Nation statutory law, Dine' bi beenahaz' a'anii, and Navajo Nation Treaties with the United States of America or other governments. All causes of action recognized in law, including general principle of American law applicable to courts of general jurisdiction.

B. The family courts of the Navajo Nation shall have original exclusive jurisdiction over all cases involving domestic relations, probate, adoption, paternity, custody, child support, guardianship, mental health commitments, mental and/or physical incompetence, name changes, and all matters arising under the Navajo Nation Children's code.

#### **§ 254. Territorial jurisdiction**

A. The territorial jurisdiction of the Navajo Nation shall extend to Navajo Indian Country, defined as all land within the exterior boundaries of the Navajo Indian Reservation or of the Eastern Navajo Agency, all land within the limits of dependent Navajo Indian communities, all Navajo Indian allotments, all land owned in fee by the Navajo Nation, and all other land held in trust for, owned in fee by, or leased by the United States to the Navajo Nation or any band of Navajo Indians.

B. The Courts of the Navajo Nation may also exercise jurisdiction over any action for probate, domestic relations, child custody, adoption and Navajo Nation benefits and services, in which a party is a Navajo resident of the Hopi -Partitioned Lands.

#### **§ 255. Writs or Orders**

The District Courts shall have the power to issue any writs or orders necessary and proper to the complete exercise of their jurisdiction.

#### **§ 256. Temporary or preliminary injunctive relief**

No District Court of the Navajo Nation shall enter an order for temporary or preliminary injunctive relief in any proceeding in which there is no appearance by the defendant, unless;

A. The District Court judge certifies in writing as to the specific irreparable harm which would occur were the temporary relief not to be ordered; and

B. The legal counsel for the plaintiff certifies by affidavit the reasonable efforts which have been made to locate the defendant or defendant's legal counsel to notify him or her of the hearing on preliminary or temporary injunctive relief.

#### **§ 257. Sovereign immunity of the Navajo Nation**

Jurisdiction of the District Courts of the Navajo Nation shall not extend to any action against the Navajo Nation without the Navajo Nation's express consent. Any action against the Navajo Nation shall comply with the Navajo Sovereign Immunity Act, 1 N.N.C, § 551 *et seq.*, and

any other law providing the Navajo Nation with immunity from suit.

#### **Subchapter 4. Special Division of Window Rock District Court**

##### **§291. Establishment**

There is hereby established the Special Division of the Window Rock District Court.

##### **§ 292. Composition**

A. The Special Division of the Window Rock District Court shall consist of three judges or retired judges or retired justices, who shall be assigned in such manner and for such terms as is provided in this Section, for the purpose of appointing special prosecutors pursuant to 2 N.N.C. §§2021-2024.

B. Judges of the Special Division shall be appointed for terms of two years each, which terms shall commence on the date of the appointments by the chief justice. ~~enactment of this Section, and thereafter on the date of every other anniversary of the enactment of this Section.~~

C. The Chief Justice of the Navajo Nation shall designate and assign three judges or retired judges or retired justices to the Special Division for each successive two-year term. At least ~~two~~ one of the judges shall be active permanent judges of the District Courts of the Navajo Nation. ~~The third judge may be either an active permanent judge of the Navajo Nation or a retired judge or retired justice of the Navajo Nation. Unless there are an insufficient number of active permanent judges from at least two District Courts, not more than one judge or retired judge may be assigned to the Special Division from a particular District (or preceding trial) Court.~~ The Chief Justice shall designate one of the judges to be the presiding judge of the Special Division.

D. Judges of the Special Division may only be removed during their terms upon their resignation, or by the chief justice for good cause. ~~a two-thirds (2/3) vote of the full membership of the Navajo Nation Council.~~ Any vacancy in such division shall be filled only for the remainder of the two-year period for which such vacancy occurs and in the same manner as the initial appointments to such division were made.

E. Except as provided under Subsection (F) of this Section, assignment to the Special Division shall not bar any other judicial assignment during the term of assignment to such division.

F. No judge of the Special Division shall ~~be eligible to~~ participate in any judicial proceeding concerning a matter which involves a special prosecutor appointed by the Division while such special prosecutor is serving in that office, or which involves the exercise of such special prosecutor's official duties, regardless of whether such special prosecutor is still serving in that office.

~~G. Within five calendar days of the enactment of this Section, the Special Division shall be created pursuant to Subsection (C) of this Section.~~

#### **Subchapter 5. Supreme Court**

##### **§ 301. Composition and location**

A. The Supreme Court of the Navajo Nation shall consist of the Chief Justice of the Navajo Nation and two Associate Justices of the Supreme Court.

B. The Supreme Court of the Navajo Nation shall be located in Window Rock, Navajo Nation (Arizona).

C. The Supreme Court of the Navajo Nation ~~may~~ shall sit and conduct hearings ~~outside of the~~ in Window Rock, Navajo Nation, Arizona. ~~in accordance with policies established for the conduct of hearings outside the Navajo Nation.~~

**§ 302. Jurisdiction Generally**

The Supreme Court shall have jurisdiction to hear appeals from final judgments and other final orders of the District Courts of the Navajo Nation and such other final administrative orders as provided by law. The Supreme Court shall also have jurisdiction over original extraordinary writs. The Supreme Court shall be the Court of last resort. The Supreme Court shall hear all appeals and any other matters before them, *en- banc*.

**§ 303. Writs or orders**

The Supreme Court shall have the power to issue any writs or orders:

- A. Necessary and proper to the complete exercise of its jurisdiction;
- B. To prevent or remedy any act of any Court which is beyond such Court's jurisdiction; or
- C. To cause a Court to act where such Court fails or refuses to act within its jurisdiction.

**Subchapter 7. Justices and Judges  
Article 1. Generally**

**§351. Salaries**

Salaries for Justices and Judges of the Courts of the Navajo Nation shall be established by the judicial branch and approved by the Judiciary Law and Order Committee of the Navajo Nation Council, and in setting rates of compensation, the ~~committee~~ Branch shall take into consideration;

- A. The Navajo Nation Classification and Pay Plan;
- B. The need to attract outstanding Navajo Candidates to the Judiciary;
- C. The need to attract or compensate Justices or Judges who are graduates of a school of law or who have extensive experience in law or judging;
- D. Comparable salaries of Justices and Judges in the region; and
- E. Any other objective criteria relevant to judicial compensation.

**§ 352. Removal from office**

A The Judiciary Law and Order Committee of the Navajo Nation Council may recommend the removal of any Justice or Judge from office if the Judiciary Committee determines reasonable

cause exists to believe the Justice or Judge has engaged in malfeasance or misfeasance in office, serious neglect of duty, or has become mentally or physically unable to perform the duties of office. The Chief Justice may recommend to the Judiciary Law and Order Committee the removal of any Justice or Judge as provided for above. Only if the Judiciary Law and Order Committee does not follow the Chief Justice's recommendation may the Chief Justice recommend such removal directly to the Navajo Nation Council.

B. The Judiciary Law and Order Committee of the Navajo Nation Council may recommend the removal of any Justice or Judge from office if the Judiciary Law and Order Committee determines there is substantial evidence that the Justice or Judge willfully or negligently made significant misrepresentations or omissions about his or her qualifications on his or her application for the Judicial position. The Chief may recommend to the Judiciary Law and Order Committee the removal of any Justice or Judge as provided for above. Only if the Judiciary Law and Order Committee does not follow the Chief Justice's recommendation may the Chief Justice recommend such removal directly to the Navajo Nation Council.

C. A recommendation for removal under subsections (A) or (B) above shall be presented promptly to the Navajo Nation Council by proposed resolution, and the Justice or Judge sought to be removed from office shall be given an opportunity to appear before the Navajo Nation Council and present evidence in his or her own defense. The Navajo Nation Council is not bound by the formal rules of evidence in its considerations or deliberations. However all pieces of evidence and testimony must be relevant, material and trustworthy. Thereafter such Justice or Judge may be removed from office by a two-thirds (2/3) vote of the full membership of the Navajo Nation Council.

D. Documented and conclusive evidence that a Justice or Judge has been convicted of a felony in state or federal court since taking office, or that a Justice or Judge has been convicted of any tribal criminal offense which is also identified as a Major Crime in 18 U. S. C. § 1153 since taking office, shall result in the removal of such Justice or Judge by resolution of the Judiciary Law and Order Committee of the Navajo Nation Council.

### **§ 353. Retirement**

A. Definitions. The following definitions shall apply for purposes of this Section;

1. Judiciary Law and Order Committee means the Judiciary Law and Order Committee of the Navajo Nation Council.

2. Navajo Nation Judge as used in this Section shall include the Chief Justice of the Navajo Nation, all Associate Justices of the Navajo Nation Supreme Court, and all ~~Trial~~ Judges of the Navajo Nation District Courts and Family Courts.

3. Judges' Retirement Plan means;

a. Either duly approved and established provisions directly applicable to Judges contained within the Retirement Plan for Employees of the Navajo Nation and Participating Affiliates or its successor; or

b. A duly approved and established Navajo Nation Judges' Plan Document.

B. Eligibility.

1. Judges beginning service after the effective date of this Section;  
a. A Navajo Nation Judge beginning service after the effective date of this Section with a permanent appointment pursuant to 7 N. N. C. § 355 may retire and receive retirement benefits only in accordance with the Judges' Retirement Plan and only after meeting the vesting, retirement age and other eligibility requirements of the Judges' Retirement Plan.

b. The provisions of this Section specifically applicable to Navajo Nation Judges beginning service before the effective date of this Section are not applicable to Judges beginning service after the effective date of this Section.

2. Judges beginning service before the effective date of this Section:

a. The vesting, retirement age, and other eligibility requirements specifically identified in this Section as applicable to Navajo Nation Judges beginning service before the effective date of this Section shall be incorporated into and applied through the Judges' Retirement Plan.

b. A Navajo Nation Judge beginning service before the effective date of this Section with a permanent appointment pursuant to 7 N. N. C. § 355 may retire after having served a total of eight or more years in office. A Navajo Nation Judge beginning service before the effective date of this Section who retires before reaching the age of 55 years pursuant to subsection (B), but not due to disability, shall not receive retirement benefits until the Judge has reached the age of 55 years.

c. A Navajo Nation Judge beginning service before the effective date of this Section who retires or resigns with less than a total of eight years in office shall not be eligible for retirement benefits under this Section.

3. A Navajo Nation Judge who intends to retire shall compile all the necessary paperwork and forward it to the Chief Justice. If the Chief Justice finds from the paperwork that the Judge meets the requirement for retirement, the Chief Justice shall give preliminary approval to the retirement request and forward the paperwork to the Navajo Nation Retirement Program for concurrence and processing of retirement benefits pursuant to the Judges' Retirement Plan.

4. A Navajo Nation Judges' total years of service for purposes of calculating eligibility for retirement benefits shall begin with the date of confirmation by the Navajo Nation Council and include all years served as a Navajo Nation probationary Judge and as a permanent Judge.

C. Removal; effect on retirement benefits.

1. The Navajo Nation Council may, upon recommendation of the ~~Judiciary~~ Law and Order Committee, remove from office a permanent Navajo Nation Judge for inability to perform judicial duties due to permanent mental or physical disability. The Chief Justice shall recommend removal to the ~~judiciary~~ Law and Order Committee. A Navajo Nation Judge removed under Subsection (C) shall receive retirement benefits in accordance with the disability provisions of the Judges' Retirement Plan.

2. A Navajo Nation Judge who has been removed from office for malfeasance, misfeasance, malfeasance, serious neglect of duty, or criminal conviction as set forth in 7 N. N. C. §352, shall be eligible for retirement benefits under this Section but shall not have the status of retired Judge.

D. Permanent disability; eligibility

1. A Navajo Nation Judge may retire if the Judge has become permanently disabled from performing his or her duties of office. ‘Permanently disabled’ means the permanent inability of the Judge, by reason of physical or mental incapacity, to perform any substantial part of his or her ordinary duties as a Navajo Nation Judge. A Navajo Nation Judge who retires under Subsection (D) shall receive retirement benefits in accordance with the disability provisions of the Judges’ Retirement Plan.

2. A Navajo Nation Judge who intends to retire under Subsection (D) shall compile all the necessary paperwork and forward it to the Chief Justice for review. The Chief Justice shall recommend to the ~~Judiciary Law and Order~~ Judiciary Law and Order Committee whether the Judge is eligible to retire under Subsection (D). The ~~judiciary Law and Order~~ judiciary Law and Order Committee shall recommend to the Retirement Plan Administration Committee or its successor whether the Judge is eligible to retire under Subsection (D). The Retirement Plan Administration Committee or its successor shall have final authority to determine whether a Navajo Nation Judge is eligible to retire under the disability provisions of the Retirement Plan.

3. The Retirement Plan Administration Committee or its successor, with the concurrence of the ~~Judiciary Law and Order~~ Judiciary Law and Order Committee, may develop nondiscretionary procedures for evaluating the continuing disability of a Navajo Nation Judge retired under Subsection (D). The retirement benefits of a Navajo Nation Judge retired under Subsection (D) shall be suspended for failure to comply with such procedures in a timely fashion or if the disability no longer meets the criteria of Subsection (D).

~~4. The retirement benefits of a Navajo Nation Judge who retires under Subsection (D) shall be suspended during the time such Judge engages in the practice of law in any way, including the teaching of law.~~

E. Benefit levels.

1. Retirement benefits for Navajo Nation Judges beginning service after the effective date of this section shall be established through the Judge’s Retirement Plan document and administered through the Navajo Nation Retirement Program. The Judge’s Retirement Plan may take into consideration the American Bar Association Standards relating to judicial retirement.

2. Retirement benefits for Judges beginning service before the effective date of this section shall be incorporated into the Judge’s Retirement Plan document and administered through the Navajo Nation Retirement Program. Such benefits shall be equivalent to ~~the~~ Section 353 in effect during the Judge’s service.

3. A retired Navajo Nation Judge who is receiving retirement benefits pursuant to this Section shall not simultaneously receive salary, wages and/or stipends for work performed from those employers participating in the Retirement Plan for Employees of the Navajo Nation and Participating Affiliates or its successor.

4. A Navajo Nation Judge’s retirement benefits shall not be diminished except as specifically identified under Subsection ~~(D)~~ and (E).

F. Pro Tempore service. The Chief Justice may recall a retired Navajo Nation Judge to service as a Navajo Nation Judge pro tempore. The retired Judge recalled to service shall

be reimbursed only for reasonable expenses related to such service. A Navajo Nation Judge who ~~has retired due to disability~~ or has been removed pursuant to Subsection (C) shall not be eligible for recall to service.

G. Plan document. The Judges' Retirement Plan shall:

1. Incorporate the applicable amended Subsection of Section 353.
2. Incorporate provisions for the continued payment of retirement benefits which have vested or will vest under the former Section 353; and
3. Include a Judges' retirement trust fund to pay judges their retirement benefits.

H. Authority. The Budget and Finance Committee, upon positive recommendation of the ~~Judiciary~~ Law and Order Committee and the Retirement Plan Administration Committee, shall have the authority to approve the initial Judges' Retirement Plan document and any subsequent amendments. This authority shall not be deemed to alter or amend the Retirement Plan Administration Committee's or the Navajo Nation Retirement Program's authority to administer the Judges' Retirement Plan or the Budget and Finance Committee's authority to administer the underlying trust fund.

I. Effective date. Except for amended Subsection (B), (C), (D) and (E), these amendments to 7 N.N.C. § 353 shall become effective upon enactment. Subsection (B), (C), (D), and (E) shall become effective after a final Navajo Nation Judges' Retirement Plan has been recommended by the ~~Judiciary~~ Law and Order Committee and the Retirement Plan Administration Committee and approved by the Budget and Finance Committee and the Judges retirement trust fund fully funded by the Navajo Nation Council. For purpose of this Subsection fully funded shall mean funded to a level sufficient to satisfy the funding requirement of the Employee Retirement Insurance Security Act if such Act was applicable to the Judges Retirement Plan.

1 29 U.S.C.A. § 1001 *et seq.*

### **§ 354. Qualifications for judicial appointment**

A. District Court. The following standards and qualifications shall apply to all judicial appointments to the District Courts of the Navajo Nation:

1. Member of the Navajo Nation and age. An applicant shall be an enrolled member of the Navajo Nation and shall be over 30 years of age.

2. Criminal Convictions. An applicant shall not have any felony or other conviction of an offense identified as a major crime in 18 U.S.C. § 1153 in any jurisdiction. An applicant shall not have any misdemeanor conviction in any jurisdiction within a five consecutive year period prior to the date the application is submitted.

3. Education. Each applicant shall have earned, at a minimum, an Associate of Arts or Science Degree from an accredited institution of higher education. An applicant who has earned a higher educational degree shall be preferred, with particular preference being

given to a law degree (J.D. or LL.M.).

4. Experience. Each applicant shall have at least four years direct work experience in a law related area and shall have a working knowledge of Navajo and applicable federal and state laws. Those applicants with experience working with the Navajo Nation Courts or with state and federal courts shall be preferred.

5. Knowledge of Navajo Language, Culture and Tradition. Each applicant must be able to speak both Navajo and English, and have some practical knowledge of the fundamental laws of the Dine'. The Applicant must be able to demonstrate:

- A. An understanding of K' e, including the Dine' clan system; and
- B. A basic understanding of traditional Navajo religious ceremonies; and
- C. An understanding of the traditional Navajo lifestyle.

6. Health. Each applicant shall produce a current statement from a licensed physician indicating that the applicant is in good physical and mental health, fit to perform the duties of a judge.

7. Driver's License. Each applicant shall possess a valid state driver's license.

8. No substance Abuse or Addition. In addition to the requirement of obtaining a medical statement pursuant to Subsection (A)(6) above, each applicant must attest that he or she does not abuse or have a harmful physical addition to any mood altering substance.

9. Writing Test. Upon initial screening of applicant by the Judiciary Law and Order Committee, those applicant selected shall submit to a writing test that illustrates each applicant's organizational, analytical and communicative legal writing abilities.

10. Ethics. Each applicant shall show that he or she has neither present nor past conflicts of interests that give the appearance of partiality or bias in cases brought in the courts of the Navajo Nation. Each applicant must demonstrate a commitment to judicial independence and an impartial background that will indicate neutrality and fairness for proper decision making. An applicant shall not have been found in violation of:

- A. The Navajo Nation Ethics in Government Law.
- B. Standards of ethics or professional conduct for lawyers in any jurisdiction;  
or
- C. Standards of ethics for judges or judicial codes of conducts in any jurisdiction;

Within a five consecutive year period prior to the date the application is submitted.

11. References. Each applicant must be of good moral character and shall submit a minimum of four current letters of reference specifically regarding his or her application for judicial appointment. At least one letter of reference shall be from a regular member in good standing with the Navajo Nation Bar Association. Such letters shall outline the applicant's legal skills, motivation and employment performance, and the applicant's character and capacity for independence, honesty and impartiality.

12. Management Ability. Each applicant shall possess managerial and independent decision-making skills necessary for the efficient operation of a Court. Information such as the applicant's record of supervising staff, coordinating budget and personnel requirements, verbal communication and writing abilities shall be carefully considered by the Judiciary Law and Order Committee.

13. Navajo Nation Bar Association. Each applicant shall show proof in his or her application that he or she is presently a regular or inactive member in good standing with the Navajo Nation Bar Association and shall maintain membership in good standing throughout his or her judicial career.

14. Removal from office. Navajo Nation probationary and permanent judges removed from office for any reason shall not be eligible for subsequent judicial appointment.

B. Supreme Court. The standards and qualifications applicable to judicial appointments to the District Courts of the Navajo Nation shall apply to all judicial appointments to the Supreme Court of the Navajo Nation with the following variations:

1. Education. Each Applicant for judicial appointment to the Supreme Court shall have earned, at a minimum, a four-year Bachelor's degree from an accredited institution of higher education. An applicant who has earned a J.D. or LL.M. shall be preferred.

2. Judge Applicants. A sitting Navajo Nation District Court Judge applicant who meets all requirements for appointment to the Supreme Court shall be preferred, ~~in~~ accordance with the following:

~~A. — A Navajo Nation Districts Court Judge (permanent or probationary) beginning service before the effective date of this section shall be eligible for appointment to the Supreme Court irrespective of the increased minimum educational qualifications for either District Court Judges or Supreme Court Justices enumerated in this Section. Provided, however, that such District Court Judge application shall meet all other minimum qualifications as set forth in this section.~~

~~B. — A Navajo Nation District Court Judge (permanent or probationary) beginning service after the effective date of this section shall not be eligible for appointment to the Supreme Court unless he or she meets all minimum qualifications for Supreme Court Justices as set forth in this Section.~~

~~C. — These minimum qualifications and educational requirements shall not affect the status of probationary or permanent Justices or Judges beginning service before the effective date of this section.~~

D.C. Each applicant shall be objectively evaluated, selected, appointed, and confirmed based solely on their qualifications for the particular judicial position at issue and without regard to political affiliation or association

**§ 355. Appointment; term of office**

A. The President of the Navajo Nation shall appoint the Chief Justice, Associate Justices, and District Court Judges with the confirmation by the Navajo Nation Council from among those applicants recommended by the Judiciary Law and Order Committee of the Navajo Nation Council.

B. The Chief Justice and the Associate Justices of the Supreme Court, and all District Court Judges shall be appointed for a probationary period of two years and upon permanent appointment shall serve thereafter during good behavior.

C. A probationary Chief Justice, Associate Justice or Judge shall not be recommended for permanent appointment unless he or she has successfully completed a course of training accredited for judges and he or she has received a satisfactory performance evaluation from the Chief Justice and the Judiciary Law and Order Committee of the Navajo Nation Council at the conclusion of the probationary Justice's or Judge's two-year probationary term.

D. At any time during the probationary term of the Chief Justice, Associate Justice or Judge, the Judiciary Law and Order Committee may recommend to the President of the Navajo Nation that the probationary Justice or Judge be removed from office. The President of the Navajo Nation, pursuant to such recommendation, shall remove such probationary Justice or Judge from office. Any Justice or Judge so removed shall not be eligible for the status of retired Judge, shall not be eligible for reappointment as a Justice or Judge, and shall not be called to sit in any case pursuant to 7 N.N.C. § 353 (F).

E. At the conclusion of the two-year probationary term, the Judiciary Law and Order Committee of the Navajo Nation Council shall review the record and qualification of each probationary Justice or Judge and shall recommend to the President whether or not each probationary Justice or Judge has satisfactorily completed the probationary term and should be appointed to a permanent position. The President shall not appoint to a permanent position any probationary Justice or Judge not recommended by the Judiciary Law and Order Committee. The appointments shall be submitted to the Navajo Nation Council for confirmation.

f. If the Law and Order Committee of the Navajo Nation Council fails or refuses to do their review and recommendation pursuant to Section (E) above, the Chief Justice may take his/her appointment directly to the President and the President may make a permanent appointment, notwithstanding the provision in Section (E) (i) above.

G. In the absences of a sitting Chief Justice, due to resignation, retirement or removal, the President of the Navajo Nation shall have the authority to appoint an acting or interim Chief Justice, from among the sitting associate justices, if there are none then from among the sitting permanent District Court Judges.

**§ 356 Probationary term**

A. The probationary term for District Court Judges, the Chief Justice and Associate Justices shall be two years from the date of confirmation by the Navajo Nation Council.

B. A permanent District Court Judge subsequently appointed as Chief Justice or Associate Justice shall also be subject to a two-year probationary term as described in Subsection (A) of this section.

### **§ 357 Evaluation**

Permanent Justices and Judges shall be subject to periodic objective evaluation in accordance with Judicial Performance Policies and Procedures, developed by the Judicial Branch and approved by the Judiciary Law and Order Committee of the Navajo Nation Council.

## **Article 2. Chief Justice**

### **§ 371 Administrative duties**

In addition to his or her judicial duties, the Chief Justice of the Navajo Nation shall supervise all Justices and Judges of the Navajo Nation and administer the Judicial Branch in accordance with applicable standards, rules, policies or procedures. The Chief Justice shall also exercise such duties that are consistent with the Office of the Chief Justice.

### **§ 372 Acting Chief Justice**

A. The Chief Justice of the Navajo Nation shall designate in writing one Associate Justice of the Supreme Court to act as Chief Justice whenever the Chief Justice is absent from the territorial jurisdiction of the Navajo Nation, is on vacation, ill or otherwise unable to perform the duties of the Chief Justice. The Chief Justice shall delegate to the acting Chief Justice some or all of the powers of the Office of the Chief Justice. The Chief Justice may at any time change his or her written designation of the Associate Justice empowered to act as Chief Justice.

B. The Chief Justice may designate in writing one permanent District Court Judge to carry out the administrative duties of the Office of the Chief Justice whenever the Chief Justice and both of the Associated Justices are absent from the territorial jurisdiction of the Navajo Nation, ill or otherwise unable to perform the duties of the Chief Justice. The designation shall expire at a time designated by the Chief Justice or whenever withdrawn in a separate writing by the Chief Justice and, in any event, shall automatically expire in five working days after the date of designation unless renewed in writing by the Chief Justice.

### **§ 373 Residence**

A residence shall be furnished in Window Rock, Navajo Nation (Arizona), together with the cost of water, sewer, refuse disposal, electricity and natural gas, without charge to the

sitting Chief Justice. The Navajo Nation shall not be responsible or liable for any cost or expenses associated with an alternative residence if the sitting Chief Justice declines to reside in the specific residence provided by the Navajo Nation as set forth in this section.

**§ 374 Oath of Office**

The Chief Justice of the Navajo Nation shall administer the oath of office to the President, Vice-President, Navajo Nation Council, and all other elected official as provided by law. The Chief Justice may designate another Justice or Judge (active or retired) of the Navajo Nation to administer the oath.

**Subchapter 9. Judicial Branch Personnel Policies**

**§ 401. Judicial Branch personnel and procedures**

All employment positions, including judicial appointments, within the judicial Branch shall be governed by the Judicial Branch personnel policies and procedures and Justices' and Judges' personnel policies and procedure, developed by the Branch and approved by the ~~Judiciary~~ Law and Order Committee of the Navajo Nation Council.