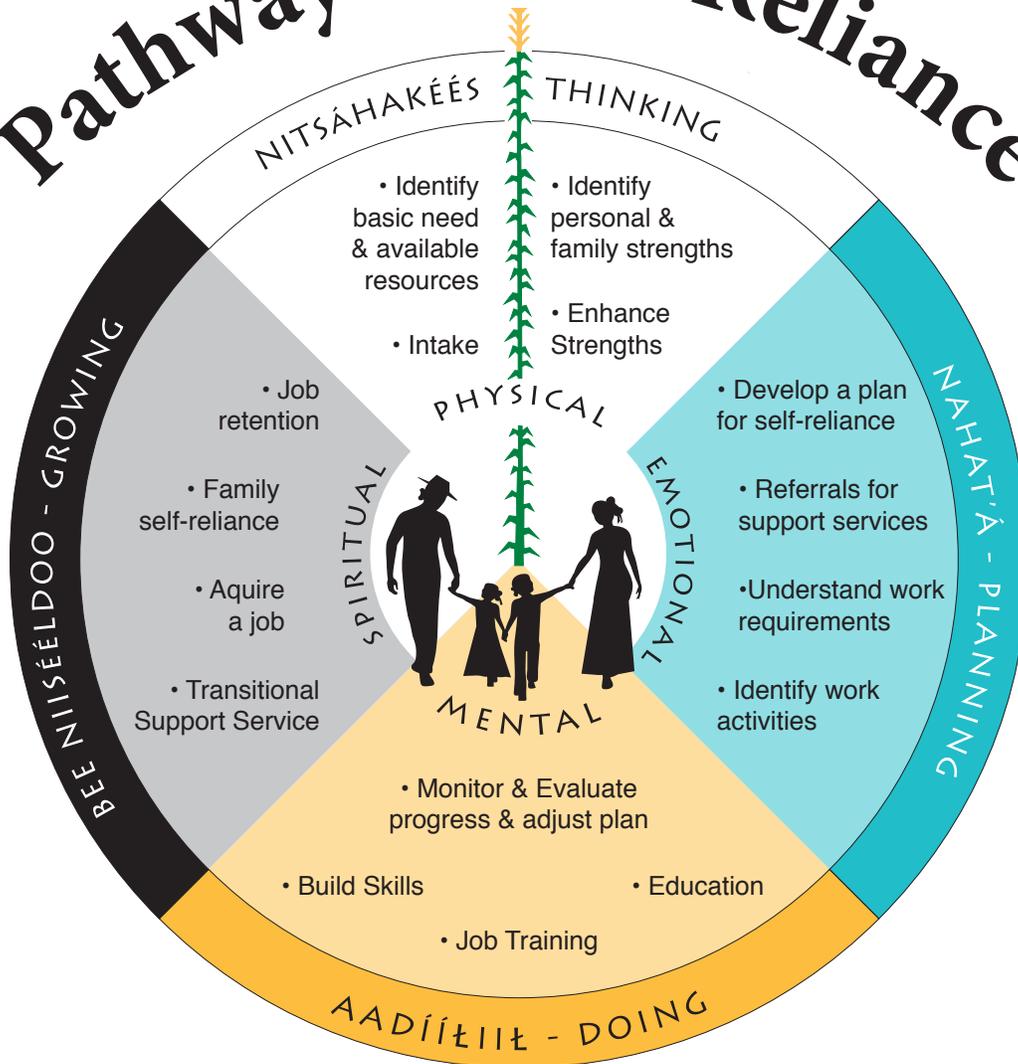




THE NAVAJO NATION
 DIVISION OF SOCIAL SERVICES
 DEPARTMENT FOR SELF RELIANCE



Pathway to Self-Reliance



T'ÁÁ HWÓ ÁJIT'ÉEGO

Manual

Effective October 2015

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SECTION 100: GENERAL INFORMATION

101 INTRODUCTION

When Public Law 104-193, Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 was enacted, major changes resulted. The four (4) purposes of the Temporary Assistance for Needy Families (TANF) Program are to:

1. Provide assistance to needy families so that children may be cared for in their homes or in homes of relatives.
2. End the dependency of needy parents on government benefits by promoting job preparation, work and marriage.
3. Prevent and reduce the incidence of out of wedlock pregnancies and establish annual numerical goals to prevent and reduce the incidence of these pregnancies.
4. Encourage the formation and maintenance of two-parent families.

The DSR has established two (2) additional purposes specific to DSR:

5. To reduce the future dependency of children on government benefits by promoting education and prevention.
6. To promote responsible and involved parenting

Some of the key PRWORA principles are:

- Welfare programs should be designed to help people move from Welfare to work.
- Welfare should be short-term and transitional; not a way of life.
- Parents should receive child care and health care services to assure that children are not put at risk as parents move from Welfare-to- Work.
- Child support programs should get tougher and more effective in securing support from absent parents.
- States, Tribes, and localities should develop diverse and creative solutions to the many factors that generate poverty and dependency.

102 WELFARE REFORM

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) or Welfare Reform, 45 CFR, Part 286 and Section 412 of Public Law 104-193, gave tribes the flexibility to design a program that will achieve the goals of the new block grant. This allowed the Navajo Nation to develop strategies for promoting work over welfare and self-sufficiency over dependency. It challenges tribes to foster changes that are culturally appropriate. It also allows Tribes to take more responsibility for program results and outcomes.

103 DEPARTMENT FOR SELF RELIANCE

In December 1996, the Navajo Nation began the development and implementation of its own Temporary Assistance for Needy Families (TANF) program. As the largest Native American Tribe in the United States, both in population and in reservation size, the Navajo Nation faced the challenge of designing a program that would effectively and efficiently serve Customers living in remote areas throughout the 26,000 square miles of land in the states of Arizona, New Mexico, and Utah.

The Department for Self Reliance (DSR) is committed to:

- providing quality and timely services;
- enhancing the self-esteem of Customers by treating Customers with dignity and respect;
- providing appropriate Customer service;
- regular reviews and contacts with the Customer; and
- coordinating and collaborating with other Tribal and State agencies as well as the private sectors to foster positive changes in Customers.

All DSR employees are responsible for providing effective and appropriate services to Customers and adhering to the goal of helping each Customer reach his/her full potential. This shall be accomplished by closely working with each Customer to develop a plan that supports the Customer's unique circumstances.

All Customers must provide accurate and current information regarding their eligibility and take responsibility for becoming self-reliant. Any person seeking DSR services and assistance shall be viewed as an individual striving to better themselves and their family.

The Department for Self Reliance shall provide support to Customers through:

- Providing employment support service opportunities through coordination and agreements with Navajo Nation programs and collaborative partners.
- Promoting educational and employment opportunities which prepare Customers for their chosen career path.
- Promoting and encouraging academic achievement of adults and minor children.
- When appropriate, using traditional teachings and concepts which promote personal responsibility and self-reliance.
- Developing a comprehensive case management data base system which monitors and tracks the progress of Customers.

SECTION 200 – T’ÁÁ HWÓ ÁJÍT ‘ÉEGO (SELF RELIANCE)

201 PURPOSE

This section is to establish a unique and culturally relevant Pathway to Self Reliance where the Customer and their family members gain a sense of responsibility and ownership of their future.

202 VISION STATEMENT

To eliminate future dependency of children and families on government assistance by promoting T’áá hwó ájít ‘eego.

203 MISSION STATEMENT

We shall serve, with integrity and ethics, to empower individuals and families by promoting T’áá hwó ájít ‘éego, through appropriate support, opportunities and education.

204 SERVICE DELIVERY MODEL

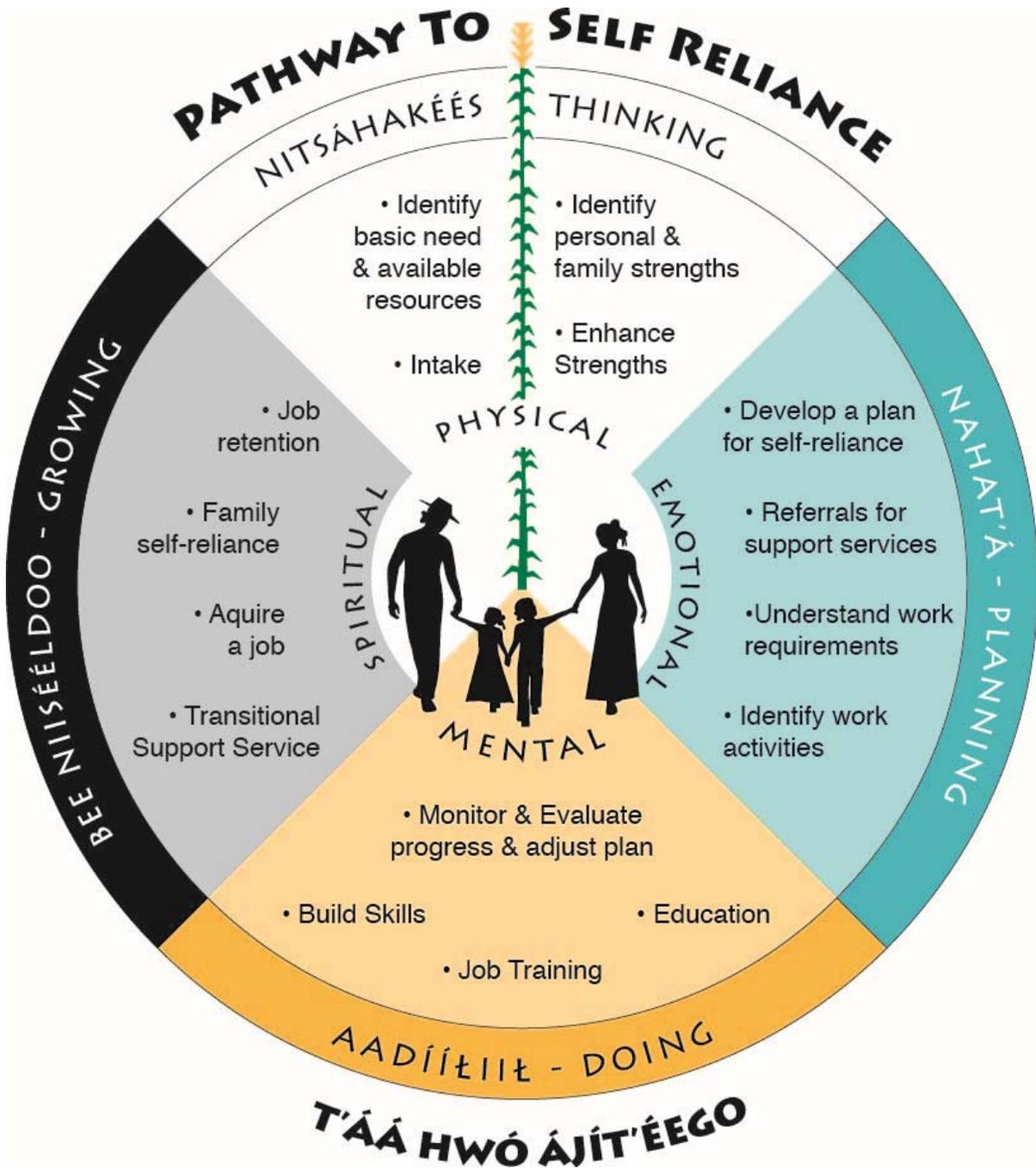
Historically, the Diné lived an active, healthy and productive lifestyle by growing crops, raising livestock, and taking responsibility for their own way of living. This lifestyle and idealism still exists, but many Diné have become dependent on Federal, State and Tribal assistance programs which are intended as temporary assistance. Like many American families in need, Navajo families seek and receive assistance from various welfare programs. For some, this is not consistent with the Dine’ traditional teachings of being strong, proud, enduring and self-sufficient.

The DSR encourages the development of social and economic responsibility as well as self-sufficiency in families and individuals seeking DSR assistance and services.

Navajo traditional teaching concepts are incorporated into the DSR by promoting the basic life principles of the Navajo people. These basic principles form the Pathway to Self-Reliance (see Figure 1) that consists of four significant life activities: Thinking, Planning, Doing, and Growing. They represent the steps individuals and families must take to become self-sufficient.

The DSR utilizes these four activities to foster individualized plans that will help develop personal responsibility and move Customers toward self-sufficiency. The DSR staff mentors Customers as they work towards the goals the Customers have set for themselves and their family in a “Personal Responsibility Plan”. All Customers are required to develop a “Personal Responsibility Plan” which is used to guide the Customer through progressive stages that include identifying a career goal, addressing barriers to self-reliance, referral, job search, work activity, evaluation and assessment, reporting and other DSR activities.

Figure 1.



205 CUSTOMER RIGHTS

Every Customer has a right to:

- A. Be treated with respect and dignity.
- B. Have their privacy recognized and respected including protection of any information that identifies the Customer and their family, in accordance with the Navajo Nation Privacy and Access to Information Act.
- C. Develop a Personal Responsibility Plan based on their interests and chosen career goal.
- D. Not to be discriminated against in the delivery of services based on race, ethnicity, national origin, religion, sex, age, mental or physical disability, sexual orientation, genetic information or source of income.
- E. Apply and receive assistance and services at any DSR office of their choosing.
- F. Have services provided in an appropriate manner with consideration for Customers with limited English proficiency or reading skills and those with diverse cultural backgrounds.
- G. Be provided information on reporting complaints and how to obtain prompt resolution of their issues and concerns.
- H. Appeal a decision made on their application or assistance case.
- I. Have access to his/her case file in accordance with applicable laws.
- J. Withdraw their application prior to a decision being rendered.
- K. Bring a person of their choosing to appointments and hearings.

206 CUSTOMER RESPONSIBILITIES

Every Customer has a responsibility to:

- A. Provide accurate and complete information about their present conditions, previous services and other information relating to his/her situation.
- B. Cooperate with DSR in the determination of their eligibility and the monitoring of their on-going eligibility, including investigations.
- C. Comply with all scheduled appointments, including arriving on time, or contacting the DSR staff to reschedule appointments.
- D. Develop a Personal Responsibility Plan (PRP) within forty-five (45) working days after the date of approval.
- E. Adhering to the provisions of an approved PRP.
- F. Review and, if necessary, update a Personal Responsibility Plan.
- G. Comply with Work Participation Requirements, when applicable.

- H. Report any changes in their circumstances which may affect their eligibility, benefit amount, and/or their PRP, within five (5) working days of the change
- I. Complete and submit a Monthly Update Report (MUR) as required.
- J. Comply with all referrals to internal and external resources.
- K. Be considerate of the rights of others.
- L. Respect the property of others, including DSR property.
- M. Refrain from verbal/physical abusive conduct toward DSR staff.
- N. Apply for continued assistance prior to the end of their current Approval Period if the need for assistance extends beyond the Current Approval Period.

207 EMPLOYEE RESPONSIBILITIES

DSR employees have a responsibility to:

- A. Assist Customers in completing the Application for Assistance and other necessary forms.
- B. Uphold and protect the confidentiality of DSR Customers in accordance with the Navajo Nation Privacy Act, the DSR Professional and Ethical Standards of Employee Conduct, and the DSR Pathway to Self Reliance Manual.
- C. Provide accurate and timely determination of eligibility for DSR assistance and services.
- D. Ensure that Customers understand DSR requirements and consequences for non-compliance.
- E. Ensure that all Customers understand that, if they do not agree with a decision made regarding their application or assistance, they have the Right to Appeal the decision.
- F. Assist Customers to understand and identify their needs, interests, strengths and weaknesses as they begin to pursue self-sufficiency.
- G. Assist the Customer to pursue all opportunities and resources available to him or her.
- H. Make payment adjustments in a timely manner when the Customer reports a change in their circumstance.
- I. Verify information provided by the Customer.
- J. Adhere to the DSR Professional and Ethical Standards of Employee Conduct.

SECTION 300 – NITSAHAKEES (THINKING)

301 PURPOSE

This section contains the policies related to intake and eligibility determination, which is the beginning of the Pathway to Self Reliance.

302 ELIGIBILITY REQUIREMENTS

Customers must meet financial, non-financial and, if applicable, supplemental eligibility requirements to receive assistance.

303 APPLICATION

The DSR Application for Assistance is used to apply for DSR assistance.

- A. Individuals applying for assistance are screened and provided information regarding eligibility criteria and Customer requirements so they can make an informed decision.
- B. An Acceptable Application submitted in person, or by mail, to a local DSR office shall begin the intake and eligibility determination process.
- C. The Registration Date shall be the Effective Date for eligibility to receive DSR assistance, unless one of the following exceptions applies:
 1. A Benefit Group receiving similar assistance from another program (State/Tribal TANF, General Assistance, etc.) during the Intake Month shall have their Effective Date for DSR assistance begin on the day after their eligibility for assistance with the other program ends, in order to prevent Duplicative Assistance.
 2. Benefit groups which meet the following criteria shall be given the option of having their Effective Date begin on the first day of the following month in order to not have a partial month of assistance count toward their sixty (60) month time limit:
 - a. reside in a Near Reservation Community;
 - b. include an adult member; and
 - c. apply within the last five (5) working days of the Intake month,
- D. The head of household must be a member of the benefit group, unless they are:
 1. a Third Party Custodian in a child-only case; or
 2. the only Custodial parent in the household and they are disabled and receiving disability benefits.
- E. Custodial Legal Parent(s) must be included in the Benefit Group unless they are disabled and receiving disability benefit payments.
- F. An applicant has a right to withdraw their application prior to a decision being rendered.

304 INTERVIEW

Upon receipt of an Acceptable Application, an eligibility determination interview shall be scheduled and conducted by no later than fifteen (15) working days from the Registration Date.

- A. All Applicants must be interviewed to determine their eligibility for assistance.
- B. Interviews should be conducted in private.
- C. At the Customer's request, or with the Customer's consent, a third party may be present.
- D. Initial eligibility interviews must be conducted face-to-face. For Two-Parent applications, both parents must be present at the interview.
- E. Eligibility interviews for continued assistance (on-going) should be conducted face-to-face, unless a justifiable reason exists to conduct the interview by phone. Justifiable reasons include, but are not limited to:
 - 1. Customer is currently residing outside of the SDA for educational or training purposes.
 - 2. Customer is in a medical/non-medical treatment facility
 - 3. Hospitalization of an immediate family member which requires the Customer's continuous presence.
 - 4. A disability which prevents the Customer from traveling.
- F. An applicant may reschedule their interview appointment once, regardless of the reason, by contacting the DSR office by the close of business on the date of their scheduled appointment.
- G. An applicant who does not complete the interview process shall have their application denied.

305 REQUIRED PERMANENT DOCUMENTS

The following permanent documents shall be required for all benefit group members:

A. Birth Certificate

A state issued birth certificate must be submitted for all members of the Benefit Group, with the following exceptions:

- 1. A newborn may be included in the benefit group without a birth certificate for up to ninety (90) calendar days after their birth. If a birth certificate is not submitted by the end of the ninety (90) calendar day period, the minor child shall be removed from the benefit group until a birth certificate is received.
- 2. Adults who do not have a birth certificate, due to being born at home, may submit an Affidavit of Birth issued by the Navajo Nation Vital Statistics office in lieu of a birth certificate.

B. Social Security Card

A Social Security Card must be submitted for all members of the Benefit Group, with the following exception:

A newborn may be included in the benefit group for up to ninety (90) calendar days after their birth without a Social Security Card. If a Social Security Card is not submitted by the end of the ninety (90) calendar day period, the minor child shall be removed from the benefit group until their Social Security Card is submitted.

306 ELIGIBILITY DECISION

A decision shall be rendered on all applications for DSR assistance and written notification provided to the Customer by no later than fifteen (15) working days after the Interview Date.

307 APPROVAL PERIOD

Benefit Groups determined eligible for DSR assistance shall be approved to receive DSR assistance for a period not to exceed twelve (12) benefit months, with the understanding that, if there is a change in their circumstances, their eligibility may be re-determined at any point during the approval period.

- A. Benefit Groups that want to continue receiving assistance beyond the end of their Approval Period must submit an application and have their eligibility re-determined prior to the end of their current Approval Period.
- B. A Benefit Group cannot receive DSR assistance beyond the end of their Approval Period.

308 NON-FINANCIAL ELIGIBILITY CRITERIA

308.1 Minor Child

All DSR benefit groups must include at least one (1) Minor Child who meets the following criteria:

- A. has not attained eighteen (18) years of age; or has not attained nineteen (19) years of age and is a full time student in secondary school; and
- B. if school-age, must be enrolled in and attending school on a full time basis, as defined by the school.

308.2 Service Delivery Area and Service Population

The head-of-household and all members of the benefit group must have resided within the DSR's Service Delivery Area (SDA) for at least thirty (30) consecutive days and meet the Service Population criteria.

- A. The DSR SDA and Service Population is:
 - 1. All families living on the Navajo Nation, including Trust lands, Fee lands and the satellite communities of Alamo, Tohajiilee, and Ramah;

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2. Families, including child-only cases, living within the city limits of a Designated Near Reservation community, where the identified head of household has a Navajo Census Number. The Designated “Near Reservation” communities for the Navajo Nation are listed in the Federal Register Vol. 44 No 9, Friday, January 12, 1979, pp. 2093-94. (See Appendix, “On or Near Reservation Designation for the Navajo Nation”)
- B. Approved DSR Customers who are temporarily absent from the DSR Service Delivery Area, for one of the reasons listed below, will be considered domiciled at their permanent residence and may continue to receive assistance during their temporary absence on the condition that they meet and comply with criteria established under 308.2(C).
1. An adult benefit group member receiving education, or training in accordance with their PRP; or
 2. A Customer receiving medical/non-medical treatment and their basic needs are not provided by the treatment facility; or
 3. A Customer whose presence is required during an immediate family member’s medical/non-medical treatment; or
 4. A Customer receiving services in a domestic violence shelter/ facility.
- C. DSR Customers who are temporarily absent from the SDA, for one of the reasons listed under (B) above, may continue to receive DSR assistance subject to the following conditions:
1. The temporary absence shall not exceed ninety (90) calendar days from the date the Customer(s) leave(s) the SDA, unless a justifiable reason exists to extend the temporary absence for up to an additional ninety (90) calendar days. If an extension is granted, the current PRP must be updated to include or extend appropriate work activities.
 2. Customers receiving medical or non-medical treatment must comply with their treatment plan, as prescribed or outlined by a certified and/or licensed physician, counselor or therapist.
 3. Customers gaining education, training, or on-the-job training must remain enrolled and make satisfactory progress in the educational/training program.
 4. Customers receiving domestic violence services must comply with their service plan.
 5. Under no circumstance shall a temporary absence exceed one hundred and eighty (180) calendar days.
- D. A benefit group, or benefit group member, that relocates outside of the SDA shall be ineligible to receive DSR assistance as of the last day of the month in which they relocate.

308.3 Residency

- A. All members of the Benefit Group must have resided with the head-of-household for at least thirty (30) consecutive days at the time of initial application.
- B. For approved on-going cases, an individual may be added to the Benefit Group after they have resided with the head-of-household for at least thirty (30) consecutive days.
- C. A newborn may be included beginning the month following their date of birth.

308.4 Citizenship

The head-of-household and all Benefit Group members must be U.S. Citizens, as verified by a Social Security Card or a state issued birth certificate, with the following exception:

EXCEPTION: For newborns, the head of household shall be provided up to ninety (90) calendar days after the child's birth to submit a Social Security Card or birth certificate. If a Social Security Card or birth certificate is not submitted by the end of the ninety (90) calendar day period, the minor child shall be removed from the benefit group until their Social Security Card or birth certificate is submitted.

308.5 Time Limit

To be eligible to apply for and receive assistance, an adult must not have reached the Time Limit of sixty (60) countable months of assistance. Any and all prior months of TANF assistance funded with a TANF Block Grant, including State and other Tribal TANF, shall be counted towards the Time Limit, unless an exemption or disregard criteria is met. (45 CFR, Part 286, §286.125).

308.6 Deprivation

“Deprivation” is defined as: A minor child deprived of financial support due to the continued absence, disability, or death, of a legal parent(s); or, in two-parent families, a child deprived of financial support due to the unemployment or underemployment of both parents in the household (legal parents, or legal parent and step-parent by marriage).

- A. All minor children in the benefit group must have Deprivation established; or if Deprivation is not established, the head-of-household must agree to pursue establishing Deprivation for the minor child(ren) in accordance with 308.6(B).

- B. If Deprivation is not established for a minor child at the time of initial application, the head of household may be given a one-time opportunity to include the minor child in the benefit group for up to twelve (12) months if the head of household agrees to, and complies with, the requirement to provide verification of making a good faith effort to establish Deprivation for the minor child.
1. If Deprivation is not established for the minor child(ren) by the end of the twelve (12)- month period after initial approval, the Customer's efforts to establish Deprivation for the minor child(ren) will be reviewed to determine if an extension should be granted.
 2. If the Customer provides verification they made a good faith effort to establish Deprivation, but for a reason(s) beyond their control, was not able to establish Deprivation for the minor child(ren), the Customer may be given up to an additional twelve (12)- month period to establish Deprivation for the minor child(ren).
 3. If the Customer does not provide verification they made a good faith effort to establish Deprivation, the minor child(ren) shall be deleted from the Benefit Group at the end of the twelfth (12th) month of assistance and cannot be included in the Benefit Group until Deprivation is established for the child(ren).
- C. Under no circumstance shall a minor child be included in a Benefit Group for more than twenty-four (24) months after initial approval without Deprivation being established.

308.7 Child Support

All Customers shall be required to cooperate with the Navajo Department of Child Support Enforcement (NDCSE) by completing an application and maintaining continual compliance with the requirements of the NDCSE, unless one of the following exclusions or exemption has been granted (45 CFR §286.155):

- A. NDCSE Good Cause Exemption.
- B. Absent Parent (AP) is deceased and AP is established as a Legal Parent.
- C. Legal Parent is disabled and resides with the minor child(ren).
- D. Minor child is eighteen (18) years of age.
- E. Absent Parent is incarcerated and either has:
 1. Five (5) or more years remaining in their sentence at the time of application; or
 2. Less than five (5) years remaining in their sentence at the time of application and the Custodial Parent plans to reunite with the AP when they are released.

308.8 Background Check

The head-of-household and adult benefit group members shall be required to complete a background check and obtain a Favorable result.

A. The background check result will be utilized to verify the following:

1. They have not been convicted of one of the following felonies:
 - a. Fraudulent misrepresentation of residence, within the ten (10)-year period preceding the date of application, in order to obtain assistance simultaneously from two (2) or more States/Tribes for the following:
 - programs funded under Title IV of the Social Security Act, which includes TANF;
 - programs funded under Title XIX of the Social Security Act;
 - programs funded under the Food Stamp Act of 1977; or
 - receipt of benefits in two (2) or more States under the supplemental security income program under Title XVI.
 - b. Possession, use, or distribution of a controlled substance (as defined in section 802(6) of the Controlled Substances Act), within the seven (7)-year period preceding the date of application.
 - c. Sexual Assault or Child Abuse and Neglect, within the seven (7)-year period preceding the date of application.
2. They are not currently residing at a residence(s) other than, or in addition to, the residence provided on the application.
3. They are not fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or an attempt to commit a crime, which is a felony under federal or state law; or
4. They are not violating a condition of probation or parole imposed under Federal or State law.

B. An adult shall be ineligible to receive DSR assistance if their background check is Unfavorable.

308.9 Disqualified

An individual applying for, and/or included in the filing unit, must not currently be in a disqualification period due to:

- A. Fourth level penalty;
- B. Intentional Program Violation pursuant to Section 507.
- C. Second consecutive missing Monthly Update Reports;
- D. Currently receiving Diversion Benefits;
- E. Currently receiving Transitional Benefits; or

- F. Physically assaulting, or threatening the safety of, a DSR employee(s). For the first incident, a Customer will be disqualified for a period of six (6) months. A second incident shall result in permanent disqualification. The assault(s) and/or threat(s) must be substantiated by a police report(s).

309 FINANCIAL ELIGIBILITY CRITERIA

A Benefit Group must meet the following financial eligibility criteria to be eligible to receive DSR assistance,:

- A. Total Countable Assets;
- B. Gross Countable Monthly Income; and
- C. Total Net Countable Monthly Income.

309.1 Total Countable Assets

A. Countable Assets

The following assets are counted toward the established asset limit, unless disregarded in accordance with federal, state or tribal law; judgement; or settlement:

1. Bank accounts (checking, savings, certificates of deposits, etc.).
2. Stocks and bonds.
3. Promissory notes and mortgages payable to the Customer.
4. The current market value of non-excluded vehicles, stock/horse trailers, flatbeds, ATVs, and boats, which are not held in lien/pawn and which the Customer has a legal right to sell.

B. Disregarded Assets

The following shall not be counted toward the established asset limit:

1. Primary residence
2. One vehicle used as the primary family transportation.
3. Vehicles held in lien or pawn.
4. Personal items used in day-to-day living such as household furnishings, jewelry, maintenance tools and equipment.
5. Property, including real property, used to generate income.
6. Cash surrender value of insurance policies.
7. Funds held in a restricted account which cannot be readily liquidated to meet basic needs.
8. Individual Development Accounts (IDA)
9. 401K/Individual Retirement Accounts (IRA)

C. A Benefit Group's Total Countable Assets must not exceed three thousand dollars (\$3,000) at the time of eligibility determination.

D. If a Benefit Group's Total Countable Assets exceed \$3,000, the Benefit Group is ineligible for DSR Assistance.

309.2 Income Types

A. Countable Income

The following income are counted in determining eligibility for DSR Assistance, unless disregarded in accordance with federal, state or tribal law; judgement; or settlement

1. Earned Income

a. Employment Income

Income, excluding In-Kind Income, received as wages, salaries or commission, from employment by another.

b. Self-Employment Income

Income received from operating one's own business where the usual employment withholdings (e.g. Federal/State Taxes, FICA, Medicare, etc.) are not deducted from the income.

2. Unearned Income

Income derived from sources other than employment, including, but not limited to:

a. Child Support Payments

b. Social Security Benefits - Retirement, Survivors, and Disability Insurance.

c. Veteran's Benefits

d. Retirement Benefits, including state, tribal, federal and railroad.

e. Interest and dividends

f. Oil and gas and other mineral royalties

g. Rental/lease of properties/land

h. Per capita payments derived from tribal owned trust or income producing enterprises, unless excluded by federal statute.

i. Unemployment Insurance Compensation (UIC) and other on-going assistance or benefits provided by the State, County or local agencies.

j. Allowances or stipend payments received to cover living expenses while participating in an educational or training program, excluding Workforce Investment Act (WIA) and Native Employment Works (NEW) programs.

k. State Income Tax Refunds

l. Vacation/Sick/Severance payments

m. Net profit from sales of any vehicles or property

n. Lottery and Gambling winnings

o. Insurance Settlements

p. Worker's Compensation

B. Disregarded Income

The following income shall be disregarded in the determination of eligibility for DSR assistance:

1. Workforce Innovation and Opportunity Act (WIOA) payments.
2. Job Corps payments.
3. Educational grants, scholarships, student work study, student loans, and other awards from a recognized source to the extent the money is used for educational expenses only.
4. Low Income Home Energy Assistance Program (LIHEAP) or any other Emergency Energy Assistance Program.
5. Supplemental assistance from public or private agencies to help the Benefit Group meet emergency situations or balance need not met by the DSR, such as; Emergency Assistance, Housing and Urban Development (HUD), and other utility allowances.
6. Wages of dependent children eighteen (18) years or younger in the Benefit Group who are full time students.
7. The value of food produced in home farming for the Benefit Group's consumption.
8. Reimbursements for job related expenses, including reimbursement for travel, lodging, meals and etc.
9. Value of supplemental food assistance received under the Child Nutrition Act, the National School Lunch Act and USDA Food Stamp Program.
10. Payments made under U.S. Housing Act – Annual Contributions Contract. HUD community development block grant funds and Escrow Accounts in the Family Self Sufficiency Program.
11. Cash value of USDA Commodities Food Assistance.
12. Relocation assistance or allowance under the Housing Act, including payments made under Title II of the Uniform Relocation and Real Property Acquisition Policy, and the Navajo-Hopi Relocation Act (P.L. 93-531).
13. Tax-exempt portions of payments made under the Alaska Native Claims Settlement Act.
14. Agent Orange Settlements or payments made under the Radiation Exposure Compensations Act for injuries or death of nuclear testing or uranium mining.
15. Benefits received under Title III and VI, Nutrition Program for the Elderly–Older Americans Act.
16. Payments to public service volunteers; e.g. Foster Grandparent Program, Community Services Program, AmeriCorps, etc.
17. Terminated Income (Does not apply to on-going cases)
18. In-Kind Income (Compensation received in non-monetary form, such as room and board, livestock, etc.) for a service(s) performed, which not converted to cash.

19. Gifts received in the form of cash or non-cash which is given voluntarily without requiring something in return.
20. Foster Care payments received for minor children not included in the benefit group.

309.3 Gross Countable Monthly Income

A Benefit Group's Gross Countable Monthly Income is the total amount of earned and unearned income received, before allowable deductions are applied, from non-disregarded income sources (e.g. number of hours worked x hourly rate).

- A. For new applications, the Benefit Group's Gross Countable Monthly Income for the Intake Month shall be utilized to determine the Benefit Group's eligibility for DSR assistance.
- B. For on-going cases (after the first two months of assistance), the Benefit Group's eligibility will be determined using the "Retrospective" concept, where the Benefit Group's actual income received in the Income Month is utilized to determine eligibility for the Benefit Month. (see Example under 309.4.B)
- C. If the Benefit Group's Gross Countable Monthly Income exceeds the current National Poverty Guidelines, adjusted at 150%, for the applicable Benefit Group size, the Benefit Group is ineligible to receive DSR Assistance.
- D. If the Benefit Group's Gross Countable Monthly Income is below the current National Poverty Guidelines, adjusted at 150%, for the applicable Benefit Group size, **proceed to the Total Net Countable Income test.**

309.4 Total Net Countable Income

A Benefit Group's Total Net Countable Monthly Income is the total amount of earned and unearned income received, after Allowable Deductions are applied, from non-disregarded income sources.

- A. For new applications, the Benefit Group's Total Net Countable Income (Gross Monthly Countable Income minus Allowable Deductions) for the Intake Month shall be utilized to determine the benefit group's eligibility for DSR assistance.
- B. For on-going cases (after the first two months of assistance), the Benefit Group's eligibility will be determined using the "Retrospective" concept. The Retrospective concept is where, at the time that a benefit group's eligibility is being determined, the Total Net Countable Income received in the prior month (Income Month) is utilized to determine eligibility for the next month (Benefit Month).

EXAMPLE: During the month of September, a benefit group's eligibility for an October (Benefit Month) assistance payment is determined using actual income received in August (Income Month).

C. Determine the Benefit Group's Total Net Countable Monthly Income by adding the Benefit Group's Countable Monthly Earned Income and the Benefit Group's Countable Monthly Unearned Income; then, if applicable, applying a Dependent Care Deduction. (see *Chart 1*)

1. Countable Monthly Earned Income

A Benefit Group's Countable Monthly Earned Income is determined by calculating the Benefits Group's Net Monthly Earned Income, then, if applicable, applying an Employment Allowance of up to \$200.00

a. Net Monthly Earned Income

A Benefit Group's Net Monthly Earned Income is determined as follows:

i. If the Benefit Group has income from employment by others, subtract the following verified Mandatory Deductions from the Benefit Group's Gross Monthly Employment Income:

- Federal and State Withholding Taxes
- FICA
- Medicare and other premiums for Employer required Insurance
- Court Ordered Child Support and Alimony payments
- Court Ordered Restitution payments

If Mandatory Deductions cannot be verified, apply a 20% deduction to the Gross Monthly Employment Income.

ii. If the Benefit Group has Self-Employment Income, subtract 20% of the Benefit Group's Gross Self-Employment Income for expenses incurred to continue their self-employment, including taxes and/or insurance.

iii. Add the Benefit Group's Net Employment Income from employment by others (B.1.a) and Net Self-Employment Income (B.1.b). The total is the Benefit Group's Net Monthly Earned Income.

b. Employment Allowance

If the Benefit Group's Net Monthly Earned Income is greater than zero, the Benefit Group shall be eligible for an Employment Allowance of up to \$200.00 in accordance with the following:

- i. If the Benefit Group's Net Monthly Earned Income is less than \$200, the Employment Allowance Deduction will be the Net Monthly Earned Income Amount.
- ii. If the Benefit Group's Net Monthly Earned Income is \$200.00 or greater, the Employment Allowance Deduction will be \$200.00.

2. Countable Monthly Unearned Income

A Benefit Group's Countable Monthly Unearned Income is calculated as follows:

- a. Adding the Benefit Group's Gross Unearned Income from all sources;
- b. If a Benefit Group member(s) is receiving Unemployment Insurance Compensation (UIC) benefit payments, subtracting thirty-three percent (33%) of the Gross UIC amount. This deduction, which is for work search related expenses, does not apply to any other type of unearned income.
- c. If no one in the Benefit Group receives Unemployment Insurance Compensation (UIC) benefit payments, the Benefit Group's Gross Monthly Unearned Income is the Countable Monthly Unearned Income Amount.

3. Dependent Care Deduction.

Expenses incurred by the Custodial Parent(s) for the care of a child(ren) younger than thirteen (13) years of age may be deducted in accordance with the following:

- a. The child care expense is:
 - i. required to allow the custodial parent(s) to participate in authorized work participation activities; and
 - ii. verified by an original bill or receipt.
 - b. The Custodial Parent must have paid, or is personally responsible for paying, the child care expense.
 - c. The child care expense can be for a child(ren) who is/are not included in the benefit group.
 - d. The maximum Dependent Care Deduction shall be \$150.00 per month for each eligible child.
- D. If the Benefit Group's Total Net Countable Income is equal to, or exceeds, the Payment Standard for the applicable Benefit Group Size, the Benefit Group shall be **ineligible** to receive DSR assistance.
- E. If the Benefit Group's Total Net Countable Income is less than the Payment Standard for the applicable Benefit Group Size, and the Benefit Group meets all other eligibility criteria, proceed to determining the Benefit Group's Eligible Monthly Assistance Amount.

309.5 Eligible Monthly Assistance Amount

The monthly assistance payment amount that an approved Benefit Group is eligible to receive shall be the difference between the Benefit Group's Total Net Countable Income and the Payment Standard for the applicable benefit group size.

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- A. For new approvals, the benefit group's Eligible Monthly Assistance Payment Amount for the first two months of assistance shall be determined by subtracting the Benefit Group's Total Net Countable Income for the Intake Month from the Payment Standard for the applicable benefit group size.
- B. After the first two (2) months of assistance (on-going cases), the Benefit Group's Eligible Monthly Assistance Amount will be determined by subtracting the Benefit Group's Actual Total Net Countable Income for the Income Month from the Payment Standard for the applicable benefit group size.

EXAMPLE: During the month of September, a benefit group's eligibility for an October (Benefit Month) assistance payment is determined using actual income received in August (Income Month).

309.6 Monthly Assistance Payment Amount

The Benefit Group's Monthly Assistance Payment Amount shall be their Eligible Monthly Assistance Amount, unless one of the following applies:

- A. A Sanction/Penalties is being applied;
- B. An Overpayment is being collected;
- C. An Underpayment is being remedied; or
- D. A Pro-rated payment is being made for the first month of assistance.

Chart 1: Eligible Monthly Assistance Amount

<u>COUNTABLE MONTHLY EARNED INCOME</u>		Monthly Income <u>Worksheet</u>
	Gross Monthly Employment Income (GMEI)	4a.
Plus	Gross Monthly Self-Employment Income (GMSEI)	5a.
Minus	Employment Income Deductions (Actual or 20% of GMEI)	4b.
Minus	Self-Employment Deductions (20% of GMSEI)	5b.
	=====	
EQUALS	Net Monthly Earned Income (NMEI)	6.
Minus	Employment Allowance (up to \$200.00 of NMEI, if eligible)	7.
	=====	
EQUALS	Countable Monthly Earned Income	8.
<u>TOTAL NET COUNTABLE INCOME</u>		
	Countable Monthly Earned Income	8.
Plus	Countable Monthly Unearned Income	11.
	=====	
EQUALS	Total Countable Monthly Income	12.
Minus	Dependent Care Deductions (if eligible)	13.
	=====	
EQUALS	Total Net Countable Monthly Income	14.
<u>ELIGIBLE MONTHLY ASSISTANCE AMOUNT</u>		
	Payment Standard for the Applicable Benefit Group Size	15.
Minus	Total Net Countable Income	14.
	=====	
EQUALS	ELIGIBLE MONTHLY ASSISTANCE AMOUNT	16.
	(If zero or negative, Benefit Group is ineligible)	

310 SUPPLEMENTAL ELIGIBILITY CRITERIA

310.1 Two-Parent Assistance (TPA)

- A. In addition to meeting the basic eligibility criteria, individuals applying for TPA must meet the following criteria:
1. The parents must have a common child(ren) which is verified by one of the following: Birth Certificate, Court Order establishing paternity, Notarized Acknowledgement of Paternity, Genetic Test results, or Adoption Order; or if the parents do not have a common child(ren), the parents must be legally married.
 2. The parents and the minor child(ren) must reside in the same home or in close proximity to one another where they are able to function as a family and have daily physical contact, unless an exception applies. For the purpose of this section, close proximity is defined as within a two (2) mile radius.
 3. Both parents must be currently unemployed or underemployed.
- B. If the parents are Third Party Custodians for an eligible minor child(ren) in their care, the minor child(ren) shall be included in the Two-Parent Benefit Group.

310.2 Third Party Custodian

- A. In addition to meeting the Non-Financial eligibility criteria, a Third Party Custodian (TPC) must have Legal Guardianship/Custody of the minor child(ren) on whose behalf they are applying, unless the following exception applies:
1. A TPC who does not have Legal Guardianship/Custody of the minor child(ren) in their care and is an Immediate Relative of the minor child(ren) shall be allowed a one-time opportunity to include the child(ren) in the Benefit Group for up to twelve (12) months, without establishment of Legal Guardianship/Custody, on the condition they comply with the following:
 - a. Provide documentation of being an Immediate Relative of the minor child(ren);
 - b. Initiate the process of obtaining Legal Guardianship/Custody by no later than three (3) months after approval; and
 - c. At each PRP review, provide verification of actively pursuing legal Guardianship/Custody for the minor child(ren).
 2. An Immediate Relative TPC who agrees to, and complies with, the specified conditions shall be exempted from Child Support Enforcement requirements for a minor child in their care while they pursue obtaining Legal Guardianship/Custody for the child.

3. If, at any time during the twelve (12)-month period, the Immediate Relative TPC does not comply with the established conditions, the minor child(ren) shall be deleted from the Benefit Group and cannot be included in the Benefit Group until Legal Guardianship/Custody is obtained.
 4. If the Immediate Relative TPC does not obtain Legal Guardianship/Custody of the minor child(ren) within twelve (12) months after initial approval, the minor child(ren) shall be deleted from the Benefit Group at the end of the month in which the twelve (12)-month period ends and the minor child(ren) will be ineligible to be included in the Benefit Group until Legal Guardianship/Custody is obtained.
 5. Under no circumstance shall a minor child be included in a Benefit Group for more than twelve (12) months after initial approval without the TPC obtaining Legal Guardianship/Custody of the minor child.
 6. Upon obtaining Legal Guardianship/Custody, the TPC will be required to comply with Child Support Enforcement Requirements.
- B. A TPC who is not an Immediate Relative of the minor child(ren) on whose behalf they are applying must have Legal Guardianship/Custody for the minor child(ren). Otherwise, the minor child(ren) cannot be included in the benefit group until they obtain Legal Guardianship/ Custody for the child(ren).
- C. The income and resources of the TPC shall not be considered in determining the benefit group's eligibility for DSR assistance.
- D. A TPC shall not be subject to Work Participation requirements.

310.3 Minor Parents

- A. A minor parent (under the age of 18) must be emancipated in order to apply for, and receive, assistance on their own.
- B. A minor parent under the age of 18 shall be eligible to receive TPA if they are the spouse of an adult head of household and the adult head of household applies on the filing unit's behalf.
- C. Minor parents receiving assistance shall be subject to Work Participation, Personal Responsibility Plan and Time Limit requirements.
- D. Upon turning eighteen (18) years of age, a minor parent shall be subject to the Background Check requirement.

311 EXCLUSION FROM BENEFIT GROUP

The following individuals are ineligible to be included in a DSR Benefit Group:

- A. Third Party Custodians, with the exception of a Step-parent by legal marriage.
- B. Any person, regardless of age, receiving Supplemental Security Income (SSI) benefits.
- C. A dependent child who turns nineteen (19) years of age.
- D. Individuals in Foster Care or Institutional Care placement.

312 MONTHLY ASSISTANCE PAYMENTS

The most current DSR Payment Standard shall be utilized to determine the monthly assistance amount to be provided to eligible Benefit Groups.

- A. The DSR Payment Standard for the applicable benefit group size is the maximum amount of assistance a benefit group may receive each month.
- B. If the Benefit Group has countable income, the monthly assistance amount the Benefit Group receives shall be the difference between the Payment Standard for the applicable Benefit Group size and the Benefit Group's Countable Monthly Income.
- C. The amount a Benefit group is eligible to receive may change:
 - 1. when a sanction/penalty is imposed;
 - 2. an overpayment is being collected;
 - 3. an underpayment is being remedied; or
 - 4. a pro-rated monthly payment is issued.
- D. Monthly benefit payments will be made utilizing the payment method established by the DSR.
- E. Subject to availability of funds, the DSR may provide a one-time per fiscal year Winter Assistance Payment, of up to \$200.00, to assist DSR benefit groups in meeting the increased cost for basic needs during the winter months. In addition to helping the families meet the costs of heating their home during the winter season, it will also assist the families in meeting the additional expenses incurred for food, clothing and utilities (water, electricity, etc.) during the time that children are at home during the winter school break.

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313 DIVERSION

Subject to availability of funds, the DSR may provide a one-time diversion benefit, as an alternative to monthly assistance, to “Non Needy” families who are at risk of becoming dependent on public assistance due to a barrier which is preventing a parent(s) from accepting a bona fide offer of long-term, sustainable employment or putting their continued employment at risk.

A. Eligibility Criteria

The following are criteria which must be met at the time of application:

1. Minor Child

The family must include at least one (1) minor child.

2. Service Delivery Area

The family must reside within the DSR’s Service Delivery Area.

3. Residency

The family must have resided within the DSR Service Delivery Area for at least thirty (30) consecutive days at the time of application.

4. Legal Parent

The head of household must be established as a legal parent for at least one (1) minor child in the family.

5. Citizenship

The head-of-household and all members of the family must be citizens of the United States, in accordance with Section 308.4 of this policy manual.

6. Time Limit

The head-of-household and, if applicable, their spouse must not have met the DSR’s Time Limit of sixty (60) countable months of assistance.

7. Income

The family’s Gross Monthly Income shall not exceed 200% of the National Poverty Guidelines for the applicable family size.

8. Assets

The Total Countable Assets of the members of the family must not exceed \$3,000.00. The following shall be excluded: primary residence; one (1) vehicle used as the primary family transportation; vehicles held in lien or pawn; personal items used in day-to-day living; property used to generate income; cash surrender value of insurance policies; funds held in restricted account which cannot be readily liquidated; Individual Development Accounts; and 401K/Individual Retirement Accounts.

9. Background Check

The head-of-household and, if applicable, their spouse shall be required to complete a background check and obtain clearance they have not been convicted of one of the following felonies:

- a. Fraudulent misrepresentation of residence, within the ten (10)-year period preceding the date of application, in order to obtain assistance simultaneously from two (2) or more States/Tribes for the following:
 - i. programs funded under Title IV of the Social Security Act, which includes TANF;
 - ii. programs funded under Title XIX of the Social Security Act;
 - iii. programs funded under the Food Stamp Act of 1977; or
 - iv. receipt of benefits in two (2) or more States under the supplemental security income program under Title XVI.
- b. Possession, use, or distribution of a controlled substance (as defined in section 802(6) of the Controlled Substances Act), within the seven (7)-year period preceding the date of application.
- c. Sexual Assault or Child Abuse and Neglect, within the seven (7)-year period preceding the date of application.

10. Disqualified

An individual applying for, and/or included in the filing unit, must not currently be in a disqualification period due to:

- a. Fourth level penalty;
- b. Intentional Program Violation;
- c. Second consecutive missing MUR
- d. Currently receiving Diversion Benefits
- e. Currently receiving Transitional Benefits.
- f. Physically assaulting, or threatening the safety of, a DSR employee(s). For a period of six (6) months for the first incident. A second incident shall result in permanent disqualification. The assault(s) and/or threat(s) must be substantiated by a police report(s).

11. Verification of existing employment or high probability of securing employment.

- B. A thorough assessment must be conducted to determine if a one-time, lump sum payment will remove the barrier which is putting the family at risk of becoming dependent on governmental benefits.

- C. The benefit amount shall be the actual amount needed to remove the barrier; or \$3,000.00; whichever is less.
- D. Customer shall be exempted from Child Support Enforcement, Deprivation, Personal Responsibility Plan and Work Participation Requirements.
- E. Receipt of Diversion benefits shall not count toward the adult's TANF time limit.

314 PROTECTIVE PAYEE

A Protective Payee may be appointed, voluntarily or involuntarily, to receive Monthly Assistance Payments on behalf of the benefit group.

- A. A Head of Household may voluntarily appoint a Protective Payee by completing a *Protective Payee Appointment* form. The designated Protective Payee must sign the form, acknowledging their appointment, in the presence of a DSR staff who will sign as a witness.
- B. A Customer may appoint a Protective Payee at any time after approval for receipt of DSR assistance.
- C. If the appointment of a Protective Payee is court ordered, the appointment must be supported by a copy of the court order.
- D. The income and resources of the Protective Payee shall not be considered in determining the benefit group's eligibility.
- E. The Protective Payee may be required to regularly or periodically provide verification of the monthly assistance payments being utilized for the basic needs of the benefit group.

315 AUTHORIZED REPRESENTATIVE

An Authorized Representative may be appointed, voluntarily or involuntarily, to represent the benefit group and act on behalf of the head of household, until the appointment is revoked.

- A. A head of household may voluntarily appoint an Authorized Representative by submitting an *Authorized Representative Appointment* form which is completed and signed by both the head-of-household and the individual they are appointing as their Authorized Representative.
- B. An Authorized Representative may be appointed at any time after a Customer's application for DSR assistance is approved. This appointment of the Authorized Representative must be documented in the Benefit Group's case record.
- C. In some circumstances, an individual may be appointed by court order to act on behalf of the head-of-household. A copy of the Court Order must be placed in the Customer's case folder.
- D. The financial resources of the Authorized Representative will not be considered in the determination of eligibility.

SECTION 400: NAHAT'A (PLANNING)

401 PURPOSE

This section establishes policies for the Planning component of the Pathway to Self-Reliance, including Personal Responsibility Plan (PRP) development.

402 CASE ASSIGNMENT

Newly approved cases must be assigned by the Local Office Supervisor, and Customers notified of their assigned worker, within ten (10) working days of approval.

403 CUSTOMER ASSESSMENTS

Formal and informal assessments shall be conducted to gather information which is necessary to develop appropriate Personal Responsibility Plans for DSR Customers and for overall case management.

404 PERSONAL RESPONSIBILITY PLAN DEVELOPMENT

- A. A Personal Responsibility Plan (PRP) shall be developed jointly with Customers and must be completed and implemented for all Benefit Groups by no later than forty-five (45) working days after approval.
- B. Customers will have the primary role and responsibility for developing their PRP. DSR staff will facilitate the PRP development and provide necessary support and mentoring.
- C. Customers who do not complete and implement a PRP within the established timeline will be subject to penalty in accordance with Section 506 - Penalties.
- D. The PRP must be developed using formal and informal assessment results and must focus on the Customer's path to gaining the skills, education, training, and services necessary for employment and self-reliance.
- F. As necessary and appropriate, cases shall be reviewed with other DSR staff to obtain assistance in developing Customer PRPs; developing strategies to address barriers and issues; developing goals and objectives; determining work activities to be authorized for the Customer, and identifying appropriate resources.
- F. Appropriate work activities which support the Customer's goals shall be authorized in the PRP.
- G. If a Customer submitted an Acknowledgement – Deprivation and/or Acknowledgement – Legal Guardianship/Custody form, the PRP shall include the goal and steps associated with establishing Deprivation and/or obtaining Legal Guardianship/Custody for the applicable minor child(ren).

405 WORK PARTICIPATION REQUIREMENTS

All adults receiving assistance and minor parents receiving assistance as the spouse of an adult head of household should begin participating in authorized work activities immediately upon receiving their first benefit payment.

405.1 Work Participation Hours

Beginning the month after a Customer's Personal Responsibility Plan (PRP) is developed and implemented, all adults included in a Benefit Group and minor parents receiving assistance as the spouse of an adult head of household shall be required to participate in authorized work activities for a minimum of twenty-four (24) hours per week, on average, during the Reporting Month.

- A. Only work participation activities which are authorized in a Customer's PRP, or pre-approved for newly approved Customers, may be counted toward the minimum work participation hours.
- B. Customers subject to Work Participation requirements shall utilize the DSR Work Participation Timesheet or worksite Time Card/Sheet to verify the number of hours they were engaged in authorized work participation activities during the Reporting Month.
- C. Customer timesheets/timecards are due by the close of business (COB) on the fifth (5th) day of the month following the month for which they are reporting hours. If the fifth day of the month falls on a weekend, holiday, or authorized office closure day, timesheets/ timecards must be received by the COB on the first working day following the weekend, holiday, or authorized closure day.
- D. Customer timesheets/timecards must be original.
- E. Customers who are unable to submit their timesheet/timecard by the established deadline, due to a reason beyond their control (see 504.G.2), may be authorized by their assigned SCW to fax their timesheet/timecard on the condition that the original timesheet/ timecard is received by no later than five (5) working days after the faxed copy is received. If the original timesheet/timecard is not received at the DSR local office within the five (5) working days period, the Customer will have no countable work participation hours for the Reporting Month.
- F. Adult Customers who do not submit a timesheet/timecard by the established deadline or who do not meet the minimum work participation hour's requirement will be subject to penalty in accordance with Section 506 - Penalties.
- G. When a Customer's work participation site is closed due to a federal, state, or tribal holiday, or for authorized closures, the Customer will be given credit for the hours they were scheduled to participate in authorized work activities on that day.

405.2 Authorized Work Activities

Work Participation Activities authorized for Customers must move them and their family toward managing or removing barriers, attaining education, preparing for and attaining employment, and/or achieving economic self-sufficiency.

A. Pre-Authorized Work Participation Activities

The following Work Participation Activities are pre-authorized for newly approved Customers up to the time their initial PRP is developed and implemented:

1. Orientation Sessions (e.g., DSR Orientation; MUR; Timesheet; PRP, etc.)
2. Assessments (TABE, Inventory Assessments, Self Identity, etc.)
3. Post-secondary education (for Customers attending a Post-secondary institution at the time of application)
4. Secondary school or course of studies leading to a GED certificate (for Customers attending High school or enrolled in a GED Program at the time of application)
5. Unsubsidized Employment, excluding self-employment

B. Work Participation Activities which may be authorized for Customers are:

1. Work Experience
2. On-the-job training (OJT) leading to employment.
3. Job skills training directly related to employment
4. Job Search
5. Job Readiness
6. Community Service
7. Vocational Education Training
8. Participation in education directly related to employment, if the Customer has not received a high school diploma or GED certificate.
9. Participation in education, other than post-secondary, directly related to employment, in the case of a Customer who has a high school diploma or GED certificate.
10. Satisfactory attendance at a secondary school or course of studies leading to a GED certificate.
11. Satisfactory attendance at a secondary school or course of studies leading to a High School Diploma.
12. Participation in Adult Basic Education (ABE), Pre-GED, Remedial Education, and English as a Second Language (ESL) courses.

13. Participation in post-secondary education
14. Provision of childcare services to another DSR Customer who is participating in authorized work activities.
15. Self-employment
16. Unsubsidized employment
17. Subsidized private sector employment
18. Subsidized public sector employment
19. Participation in Assessment as part of case management services from the DSR and other programs.
20. Participation in Orientation Session provided by the DSR and other programs.
21. Time spent in substance abuse and drug intervention and counseling; behavioral and mental health services; and domestic violence intervention and counseling. This includes being a patient of cultural/traditional ceremonies.
22. Participation and education in prevention, intervention, or treatment of physical health-related illnesses. This includes being a patient of cultural/traditional ceremonies.
23. Providing care to an immediate relative with a verified disability.
24. Traditional Support and Mentoring
25. Agricultural Subsistence
25. Reasonable transportation time to and from an authorized work activity site
26. Study/Research Time associated with an authorized education related work participation activity.

C. Limitations

If Job Search and Job Readiness are the sole authorized work participation activity for an adult benefit group member, they can be counted for:

- a. no more than twelve (12) weeks in a Fiscal Year; and
- b. no more than four (4) weeks consecutively.

If Job Search and Job Readiness are authorized to supplement other work participation activities, then the above limitations do not apply.

SECTION 500: AADII LIIL (DOING)

501 PURPOSE

This section establishes policies for the DOING component of the Pathway to Self-Reliance, where the progress of Customers is monitored to ensure reasonable and steady progress toward self-reliance.

502 CASE MONITORING

- A. DSR staff shall maintain regular contact with their assigned Customers to provide support, encouragement and assistance to the Customer in achieving their goals.
- B. When a Customer reports a change that may affect their eligibility or assistance amount:
 - 1. the Customer will be informed to provide required verification documents;
 - 2. if the required verification documents are not submitted at the time of the reported change, the Customer shall be given a Checklist which identifies the documents which need to be submitted;
 - 3. Customers will be given up to five (5) working days to provide the required verification documents, otherwise their next monthly benefit payment may not be processed;
 - 4. Upon submittal of the required verification documents, the assigned DSR staff shall determine if the reported change will affect the benefit group's eligibility or monthly assistance amount;
 - 5. Customers shall be provided due process before any change is made to the Benefit Group's eligibility or monthly assistance amount.

503 CASE STAFFING

As necessary, a case staffing shall be conducted to obtain the assistance of DSR staff to ensure that Customers receive appropriate and effective services that provide them with the opportunities and support they need to progress toward self-reliance.

504 REVIEW OF PERSONAL RESPONSIBILITY PLAN

All Personal Responsibility Plans (PRP) must be reviewed with the Customer at least once every four (4) months to ensure realistic Customer progression toward their goals and, eventually, self-reliance.

- A. The PRP review shall include:
 - 1. Assessing progress toward established goals & objectives.
 - 2. Updating goals & objectives as necessary and appropriate.

3. Reviewing the Customer's authorized work participation activities to ensure they support the goals and objectives identified in their PRP. As necessary, the Customer's authorized work participation activities shall be updated.
 4. Verifying and narrating the Customer's Months of Assistance and the number of Months of Assistance that are countable toward the Time Limit (Countable Months).
 5. Evaluation of the Customer's compliance with DSR Requirements, including establishment of Deprivation or attainment of Legal Guardianship/Custody.
- B. A new PRP shall be developed if there is a significant change in a Customer's circumstances, such as change in: residence; medical or physical condition; family composition; career goals; etc.
- C. A Customer's PRP shall be reviewed on a more frequent basis if it is in the best interest of the Customer's progress toward self-reliance, such as monitoring challenges and successes.

505 MONTHLY UPDATE REPORT

All Customers are required to submit a completed Monthly Update Report (MUR), on a monthly basis, to verify the benefit group's continued eligibility for DSR assistance and to process the Benefit Group's next monthly assistance payment.

- A. A MUR is considered completed when all questions in Part One are answered, all applicable questions in Part Two are answered; and is signed by the Head of Household and, if applicable, their Spouse.
- B. A completed MUR must be received by the close of business (COB) on the fifth (5th) day of each month, unless the following exception applies:
EXCEPTION: If the fifth day of the month falls on a weekend, holiday, or authorized office closure day, a completed MUR must be received by the COB on the first working day following the weekend, holiday, or authorized closure day.
- C. Customers who are unable to submit their MUR by the established deadline, due to a reason beyond their control (see 506.H.2), may be authorized by their assigned SCW to fax their MUR, on the condition that the original MUR is received by no later than five (5) working days after the faxed copy is received.
- D. If a change is reported on the MUR which may affect the Benefit group's continued eligibility or benefit amount, the Customer must submit required verification documents within five (5) working days after submittal of a completed MUR.
- E. A benefit group's monthly assistance payment shall not be processed until a completed original MUR, with all required verification documents, are submitted.

- F. Customers who do not submit a completed MUR for two (2) consecutive months, will be subject to the following:
 - 1. Non-payment; and
 - 2. Case closure; and
 - 3. Disqualification for one (1) month from the closure date.
- G. Customers must be provided formal written notification and informed of their appeal rights prior to a penalty being imposed. Once the established deadline for requesting an informal hearing has expired, or the Customer submits a completed and signed *Waiver of Appeal Rights* form, the penalty shall be imposed.

506 PENALTIES

- A. A Benefit Group shall be subject to penalty for non-compliance with one (1) or more of the following DSR requirements:
 - 1. Developing and implementing a PRP by no later than forty-five (45) working days after the date of approval.
 - 2. Adhering to the provisions of an approved PRP.
 - 3. Reviewing and, if necessary, updating a Personal Responsibility Plan.
 - 4. Meeting the Minimum Work Participation Hours requirement, if applicable.
- B. Prior to imposing a First Level penalty, a “Written Warning” shall be issued to the Customer. In addition, the assigned SCW/PCW must conduct a face to face meeting with the Customer to discuss and address the reason(s) for non-compliance with the DSR requirement and review the following sections of the DSR Pathway to Self Reliance (Policy) Manual with the Customer:
 - 1. 206 - Customer Responsibilities
 - 2. 404 - PRP Development
 - 3. 405 - Work Participation requirements
 - 4. 504 - PRP Review
 - 5. 506 - Penalties
 - 6. 700 - Due Process

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- C. After issuing a written warning, subsequent non-compliance with a DSR Requirement will result in imposing a penalty to reduce the benefit group's calculated monthly benefit amount in part, or in full, in accordance with the following:
- 1st Penalty: Reduction of the Benefit Group's approved monthly benefit amount by 25%
 - 2nd Penalty: Reduction of the Benefit Group's approved monthly benefit amount by 50%
 - 3rd Penalty: Reduction of the Benefit Group's approved monthly benefit amount by 75%
 - 4th Penalty: Termination of the Benefit Group's monthly benefits, closure of case, and disqualification of the head of household and, if applicable, spouse for one year from the date of closure.
- D. Penalties shall be imposed in one (1) month increments until such time that the Customer returns to compliance with the DSR requirement(s) or the Customer reaches the 4th Penalty.
- E. Customers who return to compliance with DSR requirements before reaching the 4th Penalty shall have their benefit amount restored to 100% of their approved monthly benefit amount for the next benefit month.
- F. Non-compliance by a Customer who was previously penalized shall be subject to subsequent penalty as follows:
- 1. If the current non-compliance occurred less than twelve (12) months from the month for which they were previously penalized, the next penalty will be imposed;
 - 2. If the current non-compliance occurred twelve (12) or more months after the month for which they were previously penalized, the 1st Penalty will be imposed.
- G. Customers must be provided formal written notification and informed of their appeal rights prior to a penalty being imposed. Once the established deadline for requesting an informal hearing has expired, or the Customer submits a completed and signed *Waiver of Appeal Rights* form, the penalty shall be imposed.
- H. Exemptions from penalties
- 1. A Customer shall not be penalized if they are a single custodial parent caring for a child who is under six (6) years of age and can provide verification of inability (as determined by the DSR) to obtain needed child care due to one of the following reasons: (45 CFR, Part 286, §286.150)

- a. Appropriate child care is not available within a reasonable commuting distance from the home; or
- b. Informal child care by a relative or other arrangements are unavailable or unsuitable; or
- c. Appropriate and affordable formal child care arrangements are unavailable.

Refusal to engage in work participation activities when acceptable, appropriate and affordable child care is available shall not be protected from penalty (45 CFR 286.150(3)(b)).

2. Additional exemptions from penalties may be granted, on a limited and case-by-case basis, including, but not limited to:
 - a. Death of an immediate family member.
 - b. Hospitalization of self.
 - c. Hospitalization of an immediate family member which requires the Customer's continuous presence.
 - d. Unforeseen short-term disability.
 - e. Natural disaster.
 - f. The above is not an exhaustive list of possible circumstances for a Good Cause Exemption.
3. Exemption of a Customer from penalties will be re-evaluated on a monthly basis and documented in the case file.

507 INTENTIONAL PROGRAM VIOLATION

- A. An Intentional Program Violation (IPV) results when a Customer intentionally commits one of the following acts for the purpose of establishing or maintaining eligibility for benefits, or increasing or preventing a reduction in the amount of benefits:
 1. Making a false or misleading statement;
 2. Misrepresenting, concealing or withholding facts; or
 3. Disposing of assets for the sole purpose of becoming or remaining eligible for DSR assistance.
- B. A DSR staff who suspect, or becomes aware of, a potential Intentional Program Violation (IPV) being committed by a Customer or a member of the Customer's family, must report the potential IPV to the DSR Fraud Investigation Unit (FIU) in accordance with the DSR *Investigation Referral Procedures*. A DSR staff member who does not report a potential IPV they are aware of will be subject to disciplinary action in accordance with the Navajo Nation Personnel Policies Manual.

- C. The FIU will determine if the referral shall be accepted for investigation and, if accepted, conduct an investigation in accordance with the DSR *Investigation Referral Procedures*.
- D. Upon completion of the investigation, the FIU will submit the results of their investigation to the applicable Local Office Supervisor.
- E. The Local Office Supervisor will utilize the FIU investigation results to determine if the Customer shall be disqualified for committing an IPV.
- F. A determination that a Customer committed an Intentional Program Violation (IPV) shall result in the Head of Household and all members of their benefit group being disqualified to receive DSR assistance for a length of time determined in accordance with the following:
 - 1. One (1) year for the first offense;
 - 2. Two (2) years for the second offense; and
 - 3. Permanently for the third offense.
- G. Customers must be provided formal written notification and informed of their appeal rights prior to the disqualification being imposed. Once the established deadline for requesting an informal hearing has expired, or the Customer submits a completed and signed *Waiver of Appeal Rights* form, the disqualification shall be imposed.

508 SUPPORTIVE SERVICES AND INCENTIVES

Subject to availability of funds, supportive services and incentives may be provided to assist Customers in addressing a barrier(s) to their successful participation in an authorized work participation activity and to transition toward gaining and maintaining employment.

509 SHORT-TERM, NON-RECURRING BENEFITS

Subject to funds availability, Short-Term Non-Recurring Benefits (STNRB) may be provided to eligible Needy Families to address a specific crisis or episode of need. STNRB shall not be provided to meet on-going recurring needs and shall not exceed \$5,000.00 for a lifetime.

A. Eligibility Criteria

The following criteria are established for receipt of STNRB:

- 1. The Benefit Group must be receiving DSR assistance and not be in a penalty phase for non-compliance at the time of the request.
- 2. The request must:
 - a. be for a specific crisis situation or episode of need; and
 - b. not be intended to meet recurrent or ongoing needs.
- 3. All other resources must be explored and depleted.

- B. "Crisis situation or Episode of Need" is a situation in which the crisis is beyond the family's control and that impacts the current health and daily livelihood of the benefit group.
- C. The receipt of STNRB shall not count as a month of assistance toward time limit for receipt of benefits.
- D. Allowable expense shall include, but is not limited to:
 - 1. Expenses to temporarily relocate the family if the family is, or might become, homeless due to an unforeseen circumstance such as: domestic violence, burnout, and hazardous living conditions.
 - 2. Minor repairs to the benefit group's primary residence that do not include major construction activities
 - 3. Rental costs to prevent eviction.
NOTE: Before a rental payment is authorized, verification must be obtained from the landlord of cancellation of eviction notice.
 - 4. Costs to heat or cool the home or for reinstating basic and necessary utilities.
NOTE: Before a utility payment is authorized, verification must be obtained from the utility company of cancellation of shut-off notice.
 - 5. Food, clothing, personal hygiene items, diapers, infant formula, water, bedding, and other household goods if a family has abandoned their primary home and their belongings.
 - 6. Temporary transportation costs such as: a bus pass or necessary repairs of a vehicle owned by the Customer if it is the only vehicle available for accessing essential resources during the crisis or episode of need.
NOTE: Three (3) estimates for costs of repair must be provided prior to any repairs.

510 CUSTOMER PROGRESSION TOWARD SELF RELIANCE

The progress of Customers must be assessed, at a minimum, on an annual basis to measure the Customer's advancement towards self-reliance and the ability to meet their needs. Case progression is designed to document the benefits of services provided.

SECTION 600: BEE NII SE EEL DOO (GROWING)

601 PURPOSE

This section establishes policies for the GROWING - BEE NII SE EEL DOO component of the Pathway to Self Reliance. Effective case management is critical in this process through follow-up, monitoring and provision of the support and tools necessary to achieve and maintain self-reliance.

602 CASE CLOSURE

A. A Customer's case may be closed for one of the following reasons:

1. Disqualification
 - a. Reaching the 4th Penalty
 - b. Failure to submit a MUR for two consecutive months.
 - c. Intentional Program Violation
 - d. Unfavorable Background Check
 - e. Threatening or assaulting a DSR staff which is substantiated by a police report(s).
 - f. Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or an attempt to commit a crime, which is a felony under federal or state law, as verified by the DSR Fraud Investigation Unit.
 - g. Violating a condition of probation or parole imposed under Federal or State law, as verified by the DSR Fraud Investigation Unit.
2. Ineligibility
 - a. No eligible minor child in the Benefit Group
 - b. Benefit Group relocating outside of the Service Delivery Area.
 - c. Income and/or Assets exceeding established thresholds
 - d. Non-compliance with Child Support Requirements
 - e. Meeting the DSR Time Limit for Assistance
 - f. The above is not an exhaustive list of possible reasons for an individual's or Benefit Group's ineligibility for DSR assistance.
3. Voluntary Closure
4. Failure to cooperate with DSR staff in the monitoring of their case.
5. Failure to cooperate with DSR Investigators in the investigation of a potential Intentional Program Violation.
6. Death of Head of Household

- B. Customers must be provided written notification and provided twenty (20) working days to appeal a decision to close their case; or the Customer must submit a completed and signed *Waiver of Appeal Rights* form; before the case closure can be implemented.

603 FOLLOW-UP

When a Customer's DSR assistance case is closed due to obtaining employment, DSR staff shall follow-up with the Customer at regular intervals during the first year of employment to monitor the Customer's progress toward self-sufficiency.

604 TRANSITIONAL SUPPORT SERVICES

Transitional support may be provided to families who are no longer eligible to receive DSR assistance due to obtaining employment and require support to meet necessary and appropriate costs as they "transition" to self-reliance.

- A. When a DSR assistance case is closed due to an adult Benefit Group member obtaining employment, the assigned DSR staff will conduct an assessment to determine if Transitional Support Services is necessary and appropriate.
- B. Transitional Support Services will be provided to assist eligible Customers meet the costs associated with maintaining employment and stabilizing the family to become financially self-reliant. Examples of costs include, but are not limited to:
 - 1. Child care;
 - 2. Transportation;
 - 3. Housing Costs;
 - 4. Basic utilities;
 - 5. Clothing
 - 6. Traditional ceremonies; and
 - 7. Employment related expenses.
- C. The following eligibility criteria are established for receipt of Transitional Support Services:
 - 1. The Benefit Group's DSR assistance case must be closed, or is in the process of being closed, at the time the request is made.
 - 2. The adult who obtained employment was a member of the DSR Benefit Group at the time of case closure.
 - 3. The adult's Employment must be verified by one of the following:
 - a. Personal Action Form (PAF), or similar employment form, from their employer
 - b. Employment Confirmation Letter
 - c. Employment History Verification
 - d. Current Copy of Contract of Employment

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4. The adult's Gross Monthly Income must exceed 100% of the National Poverty Guideline for the applicable family size.
 5. The adult's employment must have the potential to be long-term.
 6. The Benefit Group must not be in a penalty phase for non-compliance with a DSR requirement at the time of the request.
- D. Customers who meet eligibility criteria may receive a one-time Transitional Support Service benefit for up to twelve (12) months following closure of their DSR assistance case, or until the Needy Family's income reaches 200% of the National Poverty Guideline for the applicable family size, whichever occurs first.
- E. Transitional Support Services shall be provided in accordance with the following:

Month after Closure	Transitional Support Amount (Percent of Benefit Group's Approved Monthly Assistance Amount at time of closure)
1 st	100%
2 nd	75%
3 rd	50%
4 th to 12 th	25%

- F. The Customer's continued need for Transitional Support Services shall be evaluated and approved on a monthly basis.
- G. Under no circumstance shall a Customer receive Transitional Support Services for more than twelve (12) months.
- H. A Customer approved for Transitional Support Services shall be ineligible to apply for DSR assistance and services for a one year period from the date of approval for Transitional Support Services.

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SECTION 700: CUSTOMER DUE PROCESS

701 PURPOSE

This section establishes policies related to Customer Due Process.

702 ADVANCE WRITTEN NOTIFICATION

- A. Customers must be provided written notification of any of the following decisions and provided twenty (20) working days to dispute the decision before the decision is implemented, unless one of the exceptions under 702(B) applies.
1. Approval or Denial of an application for assistance.
 2. Case Closure.
 3. Monthly Assistance Payment Increase.
 4. Monthly Assistance Payment Decrease.
 5. No Payment for the next benefit month.
 6. Disqualification (pursuant to Section 308.9).
 7. Imposition of Sanction/Penalty.
 8. Improper Payment
- B. Any of the following decisions may be implemented prior to the end of the appeal period:
1. A decision to approve a Customer's application or increase a Benefit Group's monthly assistance amount. The Customer still has the right to appeal the favorable decision.
 2. If a head-of household submits a completed and signed *Waiver of Appeal Rights* form.
 3. If a head-of household voluntarily closes their case, or voluntarily removes a Benefit Group member from their case, utilizing the *Voluntary Withdrawal/Closure/Removal* form, since the head-of household waived their appeal rights.
 4. If a head-of household voluntarily withdraws their Request for Informal/Formal Hearing, since the head-of household waived their appeal rights.
 5. If a head-of household reports, or verification is obtained, that the benefit group has relocated to an area outside of the DSR Service Delivery Area (SDA), a benefit group's case shall be closed as of the last day of the month in which they relocate due to no longer residing in the SDA. The Customer still has the right to appeal the decision.
- C. Customers must be advised of their appeal rights and provided twenty (20) working days to appeal the decision. The twenty (20) working days appeal period begins on the day after the postmark date of the Decision Notice (the day the letter is mailed is not counted).

- D. If the Customer does not submit a Request for Informal Hearing by the close of business on the last day of the twenty (20) working days appeal period, the decision made shall be implemented and considered official.
- E. If there is no change in an active benefit group's eligibility status or payment status (the benefit group's assistance payment remains the same as the previous month and there is no change in income sources), a decision notice does not need to be sent to the Head of Household.

703 APPEALS

- A. A Customer may appeal a decision by submitting a Request for Informal Hearing to the local DSR Office which issued the decision.
- B. The Customer's appeal must be received by the close of business on the last day of the twenty (20) working day appeal period.
- C. A Customer may withdraw their Request for Informal Hearing, at any time prior to the Informal Hearing Decision being rendered, by submitting a written withdrawal request to their local DSR office.
- D. The decision being appealed shall not be implemented until after the Customer's appeal rights have been exhausted or waived. Customers requesting a Formal Hearing will complete an *Acknowledgment-Appeal* form authorizing implementation of the option they chose.

704 INFORMAL HEARING

- A. An Informal Hearing shall be scheduled and conducted by no later than ten (10) working days from the date the appeal is received at the local DSR Office which issued the decision.
- B. Customers may reschedule their Informal Hearing once, regardless of the reason, by contacting their DSR Office, by no later than the scheduled time of their Informal Hearing. If a Customer was not able to reschedule their Informal Hearing by the established deadline due to a verified and justifiable reason beyond their control, the Local Office Supervisor may reschedule a Customer's Informal Hearing.
- C. If a Customer does not appear for their scheduled Informal Hearing and does not reschedule their Informal Hearing in accordance with 704(B) above, the decision being appealed will stand.
- D. An Informal Hearing decision shall be rendered and written notification provided to the Customer by no later than five (5) working days after the conclusion of the Informal Hearing.
- E. A Customer may appeal an Informal Hearing decision by submitting a Request for Formal Hearing to the Navajo Nation Office of Hearings and Appeals.
- F. An Informal Hearing decision must be rendered before a Customer can submit a Request for Formal Hearing.

705 FORMAL HEARING

- A. A Customer may appeal an Informal Hearing decision by submitting a request for formal hearing to the Navajo Nation Office of Hearings and Appeals (OHA) by no later than twenty (20) working days after the postmark date of the Informal Hearing Decision Notice.
- B. The Customer shall provide the Local DSR Office with a copy of the request for formal hearing they submitted to OHA.
- C. Upon receiving the copy of the Customer's formal hearing request, Customers receiving DSR monthly assistance payments at the time they submitted their request for formal hearing shall complete and submit an *Acknowledgment-Appeal* form indicating if they want to:
 - 1. Continue receiving their current monthly benefit amount during the Formal Hearing Process, with the understanding that, if the Formal Hearing decision is not in their favor, an overpayment will occur and they will be responsible for paying back the full amount of the overpayment; or
 - 2. Have their monthly benefit amount reduced/discontinued during the Formal Hearing Process, with the understanding that, if the Formal Hearing decision is in their favor, an underpayment will occur and they will receive a payment for the full amount of the underpayment.
- D. When the completed and signed *Acknowledgment-Appeal* form is received, the form shall be submitted to the assigned DSR staff for implementation of the chosen option
- E. The OHA will schedule the Formal Hearing and provide notification to the Customer, DOJ, and the DSR of the scheduled Formal Hearing date, time and location.
- F. Appropriate DSR staff will cooperate and coordinate with the Department of Justice (DOJ) attorney in preparing for the formal hearing, including cooperating with DOJ in settling the matter.
- G. A Hearing Officer assigned by OHA shall preside over the hearing and an attorney from DOJ shall be present to speak on behalf of the DSR. The Customer may represent him/herself or retain counsel at their own expense.
- H. Upon receipt of the Formal Hearing decision, the PSII will take appropriate actions based on the decision rendered, including, if applicable, a Potential Improper Payment Referral.
- I. A copy of the Formal Hearing Decision Notice shall be placed in the Customer's case file.
- J. The Formal Hearing shall be the final administrative appeal level.

SECTION 800: INTERNAL CONTROLS

801 PURPOSE

This section establishes policies related to program internal controls to ensure compliance with the Federal, State and Navajo Nation laws, and regulations.

802 INTERNAL REVIEWS

Random case reviews shall be conducted to assure accuracy and compliance with requirements of Public Law 104-193; 45 CFR Part 286; the Navajo Nation Tribal Family Assistance Plan; and DSR Pathway to Self Reliance (Policies) Manual.

Case management and eligibility determination errors discovered during an Internal Case Review shall be remedied and corrective action shall be taken to prevent future errors.

803 DATA COLLECTION AND REPORTING

Complete and accurate information shall be collected and reported to comply with 45 CFR Part 286, Subpart E – Data Collection and Reporting Requirements.

804 PROGRAM INTEGRITY

To protect the DSR's integrity, all potential internal and external fraudulent activities shall be investigated. In addition, all staff will be subject to a background check and must obtain a Favorable result.

805 RECORDS MANAGEMENT

All case records shall be maintained in accordance with applicable laws, regulations, and internal record procedures.

806 PROFESSIONAL ETHICS AND STANDARDS

All DSR staff shall strictly adhere to the DSR's Professional and Ethical Standards of Employee Conduct and the Navajo Nation Access to Information and Privacy Act to uphold the integrity of the DSR and protect the confidentiality of DSR Customers.

807 IMPROPER PAYMENTS

All Potential Improper Payments (a payment that should not have been made or that was made in an incorrect amount) shall be handled in accordance with the DSR Improper Payment Procedures.

SECTION 900: GLOSSARY

901 PURPOSE

This section defines the words, terms and acronyms that are used in this Policy Manual. The terms or words used in this Manual may differ from the terms or words as used by the general public.

902 DEFINITIONS

Absent Parent: A Legal Parent(s) who has been absent from the home for at least thirty (30) consecutive days and does not provide care, guidance and/or financial support to his/her child(ren).

Acceptable

Application: An Application for Assistance which has, at minimum, the Applicant's Name, Social Security Number, Date of Birth, Mailing Address, and Physical Residential Address; Names, Social Security Numbers and Dates of Birth of Filing Unit Members; and Signature(s).

Adult: An individual who is eighteen (18) years of age or older; or a child under eighteen (18) years of age emancipated by a court of competent jurisdiction.

Appeal: A request made by a DSR Customer to have someone other than the caseworker review or examine a decision made on their DSR assistance or service.

Applicant: An individual who submits an application to request DSR assistance or services, whether they are included in the request or not.

Application: The form, *Application for Assistance*, which is completed and submitted to apply for DSR assistance.

Asset: Something of value that an individual owns, and has legal rights to, which can be easily converted to cash to meet the current needs of the Benefit Group.

Assistance: A payment provided to meet a family's on-going basic needs and supportive services provide to families that are unemployed or underemployed.

Authorized

Representative An individual formally appointed by the head of household, or pursuant to a court order, to represent the benefit group in all matters pertaining to their DSR application or assistance case.

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- Benefit Group:** Members of a Needy Family who meet eligibility requirements for receipt of DSR assistance, whose needs are included in the benefit amount, and whose income and resources are considered in determining eligibility for DSR assistance.
- Benefit Month:** A month for which a Customer is approved to receive a monthly assistance payment.
- Caretaker:** An individual appointed or volunteering to provide full-time care to a person.
- Case Staffing:** A meeting, involving two or more DSR staff, to develop and enhance case management and services provided to Customers.

Case staffing may include, but is not limited to: reviewing formal and informal assessments; developing strategies to address barriers and issues; identifying appropriate Customer work activities and resources; reviewing and updating Customer goals and objectives; and reviewing Customer progression.
- Common Child:** A dependent child who lives with and is cared for by both of his/her legal parents.
- Continued Absence:** A situation where a Legal Parent has either never lived with his/her minor child(ren); or has left the home where his/her minor child(ren) reside(s) with the intention of not returning and has been out of the home for more than thirty (30) consecutive days.
- Custodial Parent:** A legal parent who has physical custody of, and is responsible for the care of, a minor child(ren).
- Customer:** An individual applying for, or receiving, DSR assistance and services.
- Decision Notice:** Written notification provided to a Customer explaining a decision made on their DSR application or assistance.
- Deprivation:** A minor child deprived of financial support due to the continued absence, disability, or death, of a legal parent; or, in two-parent families, a minor child deprived of financial support and care due to the unemployment or underemployment of both parents in the household (legal parents, or legal parent and step-parent by marriage).

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Designated Near Reservation Communities:	Communities adjacent to the Navajo Reservation, which are designated as Near Reservation communities for the Navajo Nation, pursuant to Federal Register Vol. 44 No. 9, Friday January 12, 1979, pp. 2093-4.
Diversion:	An alternative to monthly assistance where a lump sum payment is provided to a Benefit Group, based on a determination that, with the removal of a short-term, non-recurring financial barrier, the Benefit Group has a high probability of attaining/achieving self-reliance.
Due Process:	A Customer's right to be provided written notification of a decision made on their application for assistance or case; be provided twenty (20) working days to appeal the decision before the decision is implemented; and be provided an opportunity to be heard (fair hearing).
Emancipation:	A person under eighteen (18) years of age who, by order of a court of competent jurisdiction, has demonstrated he/she is able and capable of living on their own and to be financially self-reliant.
Employment Income	Income, excluding In-Kind Income, received as wages, salaries or commission, from employment by another.
Exclusion:	A determination that an individual is not required to comply with a DSR requirement due to the requirement being non-applicable in their particular circumstance.
Exemption:	Released or excused from having to comply with a DSR requirement (e.g. Child Support Enforcement, etc.), for a specified period, due to a justifiable reason or special circumstance.
Family:	A social unit consisting of at least one (1) minor child who lives with their parent(s) or related/unrelated caretaker.
Filing Unit:	Individuals on whose behalf a DSR application is submitted.
Fraud:	Intentional false representation of facts through deceit, trickery, or omission that induces the Caseworker to approve benefits that the Customer was not entitled to receive.

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Full Time Student:	An individual enrolled in an institution of learning and enrolled in the appropriate number of credit hours deemed as full time by the individual institution.
Garnishment:	When a deduction is made from a person's income to satisfy a debt with, or without, their expressed consent.
Gift:	A donation, in the form of cash, other financial instruments, or goods, which is given voluntarily without requiring something in return.
Good Cause Exemption:	A determination that a justifiable reason exists to exempt a DSR Customer from having to comply with a DSR requirement.
Gross Income:	The total amount of Countable Earned and Unearned income a person receives from all sources, before any deductions are made.
Head of Household:	The individual designated to apply on behalf of the household, who shall represent, and is responsible for, the Benefit Group.
Household:	Individuals living together and functioning as a unit, with a head of household who may or may not be related to the members of the household.
Income:	The amount of money or in-kind gain received from employment, benefits, sales of goods or services, contributions, property, winnings, and other sources that are available to meet basic needs and other expenses.
Ineligible	A determination that an individual or family does not meet the eligibility requirements for DSR assistance and services.
Immediate Relative:	An individual who is related by blood, legal marriage, or adoption , as: father; mother; son; daughter; brother; sister; husband; wife; stepfather; stepmother; stepson; stepdaughter; uncle, aunt; stepsister; stepbrother; half-brother; or half-sister.
Informal Hearing:	A meeting conducted in an informal setting with a Customer to attempt to resolve an issue, complaint, or appeal before proceeding to a formal hearing.

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In-Kind Income:	Compensation received in non-monetary form (e.g. room and board, jewelry, food, household goods, livestock, etc.), for a service(s) performed, which is <u>not converted to cash</u> .
Integrity:	Adhering to moral principles and values.
Intentional Program Violation:	Intentionally committing one of the following acts for the purpose of establishing or maintaining eligibility for DSR benefits, or increasing or preventing a reduction in the amount of DSR benefits: Disposing of assets for the sole purpose of becoming or remaining eligible for assistance; misrepresenting, concealing or withholding facts; or making a false or misleading statement.
Legal Parent:	A parent listed on a child's birth certificate; or a parent for whom paternity has been established by a court, paternity test or by a signed and notarized Acknowledgement of Paternity; or a legal adoptive parent. An individual whose Parental Rights have been terminated by a court is not considered a Legal Parent.
Legal Guardian:	An individual, other than the legal parents, who has been appointed by a court of a competent jurisdiction, as the legal guardian of a minor child.
Legal Marriage:	The union of a man and woman as husband and wife through a legal commitment; religious ceremony; or traditional ceremony.
Lien:	A restriction placed on a person's asset, property or belonging to satisfy a debt, obligation, or duty.
Long-Term	Continuous for at least six (6) months.
Mandatory Deductions:	Deduction from income that are required by law, Court Order or Garnishment, such as; Federal Insurance Compensation Act (FICA), Insurance Premiums, Child Support, Taxes and etc.
Minor Child:	An individual who has not attained eighteen (18) years of age; or has not attained nineteen (19) years of age and is a full time student in secondary school.

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Monthly Update Report:	The form which must be completed and submitted by DSR Customers to verify the Benefit Group's eligibility for continued assistance.
National Poverty Guideline:	The federal poverty measure, issued annually by the U.S. Department of Health and Human Services, which is used to determine financial eligibility for certain federal programs.
Needy Family:	A family, which includes at least one (1) minor child, whose monthly gross income does not exceed 150% of the federal poverty guideline for the applicable family size.
Net Income:	The total amount of income that is available after mandatory deductions are made from gross income.
Payment Standard:	The matrix utilized to determine the monthly assistance amount, based on Benefit Group size, for DSR Benefit Groups.
Penalty:	A progressive reduction of a Benefit Group's monthly benefit amount imposed due to failure to comply with a specified DSR requirement(s).
Per Capita Payment:	Yearly distribution of Tribal funds or royalties per individual tribal members.
Post-Secondary:	Education and/or training after high school.
Protective Payee:	An individual appointed by the Head of Household, or pursuant to a court order, to receive assistance payments on behalf of the benefit group.
Registration Date:	The date that an application is accepted by the DSR local office, whether in person or by mail.
Reporting Month:	The month for which a Customer is required to meet the Minimum Work Participation Hours requirement due to receiving DSR assistance for that month.
Resources:	Income, revenues, assets, properties, other services, other benefits and other valuables that are or could be available to a DSR Customer.

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Residence:	An established location where a Customer currently resides.
Self-Employment:	Operating one's own business.
Self-Employment Income	Income received from operating one's own business where the usual employment withholdings (e.g. Federal/State Taxes, FICA, Medicare, etc.) are not deducted from the income.
School Age:	A dependent child who turns six (6) years of age prior to September first and is under eighteen (18) years of age.
Self-Reliance:	A state or goal that shall be pursued with a family to prepare the adults for employment and/or prevent the future dependence of the minor children on governmental benefits.
Service Delivery Area:	The geographic area and population to be served by the DSR, as defined in the Navajo Nation's Approved Tribal Family Assistance Plan.
Step-Parent:	A legal parent's spouse who is not the biological or adoptive parent of the legal parent's child(ren).
Subsidized Private Employment:	Employment with a private business (e.g. Bashas', Lowes', Chevron, Giant, BHP, Safeway, etc.) where employment related expenses (salary/wages, insurance, benefits, etc.) are cost shared between the employer and other entities, including the DSR.
Subsidized Public Employment:	Employment with a public agency (e.g. Navajo Nation, IHS, BIA, Public Schools) where employment related expenses (salary/wages, insurance, benefits, etc.) are cost shared between the employer and other entities, including DSR.
Support Service:	A service, which removes a barrier to employment or education/training, provided to a Benefit Group member engaged in an approved work participation activity.

**NNDSS DEPARTMENT FOR SELF RELIANCE
PATHWAY TO SELF RELIANCE MANUAL**

Sustainable Employment:	Employment at a wage which meets or exceeds the National Poverty Guideline amount for the applicable Benefit Group size.
Terminated Income:	Income which was being received on a regular basis (daily, weekly, bi-weekly or monthly) which is no longer being received and the last payment was received prior to the date that a new application is submitted.
Third Party Custodian:	An adult caretaker of a minor child who is not the legal parent of the minor child.
Time Limit:	The sixty (60) Countable Months (whether or not consecutive) that DSR assistance may be provided to a Benefit Group that includes an adult member.
Under-Employed:	An individual who is employed, including self-employment, but whose countable monthly income is less than the Payment Standard for the applicable Benefit Group size.
Unsubsidized Employment:	Employment where the employer is responsible for all employment related expenses (salary/wages, insurance, benefits, etc.).
Welfare Reform:	The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) which eliminated the Aid to Families with Dependent Children's open-ended entitlement and created a block grant for states and tribes to provide time-limited assistance for needy families, with work requirements for most recipients.
Working Day:	A day on which Navajo Nation offices are open for regular business.

Prospective-Prospective-Retrospective:

The concept used to determine an eligible Benefit Group's assistance amount. The countable monthly income the Benefit Group anticipates (Prospective) or receives (Retrospective) in the Income Month is used to determine their monthly assistance amount.

Intake Month: The calendar month in which an Application for Assistance is received and accepted.

Income Month: The income received during this month is utilized to determine eligibility for DSR assistance.

For New Applications, the Intake Month is the Income Month. The countable income the Benefit Group anticipates receiving in the Intake Month is utilized to determine the Benefit Group's assistance amount for the first two (2) months of assistance.

To calculate the third and following months of assistance, the Income month is two (2) months before the Benefit Month (e.g. For the Benefit Month of October, the Income Month is August).

New Application: An application submitted by a head-of-household who is applying for DSR assistance for the first time; or an application submitted by a head-of-household who previously received DSR assistance but has had a break in service of more than two (2) full Benefit Months.

Prospective: For new applications, utilizing the amount of income the Benefit Group anticipates or expects to receive during the Intake Month to determine a Benefit Group's eligibility and, if eligible, to determine the Benefit Group's monthly assistance payment amount for the first two (2) months of assistance .

Retrospective: After the first two (2) months of assistance is provided, a Benefit Group's eligibility and monthly assistance amount is determined utilizing the actual income the Benefit Group received two (2) months before the Benefit Month (e.g. the monthly assistance amount for the Benefit Month of October is determined utilizing the actual income received in August).

903 ACRONYMS

CFR	Code of Federal Regulations
DSR	Department for Self Reliance
HUD	Housing & Urban Development
IPV	Intentional Program Violation
IDA	Individual Development Account
MUR	Monthly Update Report
NDWD	Navajo Department of Workforce Development
NPG	National Poverty Guideline
P-P-R	Prospective-Prospective-Retrospective
PRP	Personal Responsibility Plan
PRWORA	Personal Responsibility & Work Opportunity Reconciliation Act
QA	Quality Assurance
SDA	Service Delivery Area
TANF	Temporary Assistance for Needy Families
TAS	Tribal Assistance System
TPA	Two-Parent Assistance
WIA	Workforce Investment Act

EXHIBITS:

- A. Federally Designated Near Reservation Communities
- B. Navajo Nation Privacy and Access to Information Act

EXHIBIT A:

Federally Recognized Near Reservation Communities

FEDERALLY RECOGNIZED NEAR RESERVATION COMMUNITIES

Pursuant to Federal Register Vol. 44 No. 9, Friday January 12, 1979, pp. 20934, the Recognized Near Reservation Communities for the Navajo Nation are:

Within the State of Arizona

- Grand Canyon
- Joseph City
- Marble Canyon
- Flagstaff
- Snowflake
- Holbrook
- Page
- Wupatki
- Winslow

Within the State of New Mexico

- Farmington
- Aztec
- Bloomfield
- Magdalena
- Cuba
- Kirtland
- Grants
- Milan
- Socorro
- Gallup

EXHIBIT B:

Navajo Nation Privacy and Access to Information Act

Title 2. Navajo Nation Government

Chapter 1. Establishment

Subchapter 4. Privacy and Access to Information

§81. Short Title

This Act shall be referred to as the "Navajo Nation Privacy Act."

§82. Declaration of Public Policy

The Navajo Nation Council finds and declares it the policy of the Navajo Nation that a democratic form of government requires that information related to government operations be accessible to the public, while recognizing that individuals have a right to privacy. It is the intent of the law that the general public be provided a means to access records and information relating to the operation of the Navajo Nation while preserving the privacy interests of individuals and entities.

§83. Definitions

As used in this subchapter:

- A. "*Governmental entity*" means any administrative, advisory, executive judicial or legislative office or body of the Navajo Nation or its political subdivisions, including without limitation all commissions, corporations and other instrumentalities whose boards of directors are appointed or elected by the Navajo Nation or its political subdivisions. Governmental entity includes all quasi-judicial bodies and all standing, special or advisory committees or subcommittees of, or appointed by, the Navajo Nation to carry out the public's business.
- B. "*Person*" means any individual, nonprofit or profit corporation, partnership, sole proprietorship or other type of business organization.
- C. "*Protected record*" means any record containing data on persons or governmental entities that is private or otherwise protected as provided by 2 N.N.C. § 85.
- D. "*Public record*" means any record that is not private or otherwise protected and that is not exempt from disclosure as provided in 2 N.N.C. § 84.
- E. "*Record*" means all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings, electronic data or other documentary materials regardless of physical form or characteristics which are prepared, owned, received or retained by a governmental entity and where all of the information in the original is reproducible by photocopy or other mechanical or electronic means. "Record" does not mean:
 - 1. Materials that are legally owned by an individual in his private capacity;
 - 2. Materials to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity;
 - 3. Junk mail or commercial publications received by a governmental entity or an official or employee of a governmental entity;
 - 4. Books and other materials that are cataloged, indexed or inventoried and contained in the collections of libraries open to the public;
 - 5. Daily calendars and other personal notes prepared by the originator for the originator's personal use or for the personal use of an individual for whom he is working;
 - 6. Computer programs that are developed or purchased by or for any governmental entity for its own use; or
 - 7. Notes or internal memoranda prepared as part of the deliberative process by a member of the judiciary or any other body charged by law with performing a quasi-judicial function.
- F. "*Right to Privacy*" means the right of a person to be free from unwarranted intrusion by a governmental entity.

§84. Records that must be disclosed:

- A. The following records are public except to the extent they contain information expressly permitted to be treated as protected as provided for 2 N.N.C. § 85:
 - 1. Laws;
 - 2. Names, gender, job titles, job description, business addresses, business telephone numbers, number of hours worked per pay period, dates of employment, relevant

education, previous employment and similar job qualifications of the governmental entity's current and former employees and officers excluding:

- a. Undercover law enforcement personnel; and
 - b. Investigative personnel if disclosure could reasonably be expected to impair the effectiveness of investigations or endanger any individual's safety.
3. Inter-office memoranda;
 4. Final opinions, including concurring and dissenting opinions, and orders that are made by a governmental entity in an administrative, adjudicative or judicial proceeding except that if the proceedings were properly closed to the public, the opinion and order may be withheld to the extent that they contain information that is protected;
 5. Final interpretations of statutes or rules by a governmental entity;
 6. Information contained in or compiled from a transcript, minutes or report of the open portions of a meeting, excluding executive sessions, of a governmental entity, including the records of all votes of each member of the governmental entity;
 7. Judicial records unless a court orders the record to be restricted under the rules of civil or criminal procedure or unless the records are protected under this subchapter;
 8. Records filed with or maintained by governmental entities that give public notice of:
 - a. Titles or encumbrances to real property, including homesite permits, land use permits and grazing permits; or
 - b. Restrictions on the use of real property.
 9. Records filed with or maintained by governmental entities that evidence incorporations, name changes and uniform commercial code filings;
 10. Documentation of the compensation that a governmental entity pays to a contractor or private provider; and
 11. Data on individuals that would otherwise be protected under this subchapter if the individual who is the subject of the record has given the governmental entity written permission to make the records available to the public.
- B. The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under 2 N.N.C. § 85:
1. Administrative staff manuals, instructions to staff and statements of policy;
 2. Records documenting a contractor's or private provider's compliance with the terms of a contract with a governmental entity;
 3. Contracts entered into by a governmental entity;
 4. Any account, voucher or contract that deals with the receipt or expenditure of funds by a governmental entity;
 5. Correspondence by and with a governmental entity in which the governmental entity determines or states an opinion upon the rights of the Nation, a political subdivision, the public or any person;
 6. Empirical data if contained in drafts if:
 - a. The data is not reasonably available to the requester elsewhere in similar form; and
 - b. The governmental entity is given a reasonable opportunity to correct any errors or make non-substantive changes before release.
 7. Drafts that are circulated to anyone other than a governmental entity, a federal agency if the governmental entity and the federal agency are jointly responsible for implementation of a program or a contractor or private provider;
 8. Drafts that have never been finalized but were relied upon by the governmental entity in carrying out action or policy;
 9. Arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;
 10. Search warrants after execution and filing of the return, except that, for good cause, a court may order restricted access to search warrants prior to trial;
 11. Records that would disclose information relating to formal charges or disciplinary action against a past or present governmental entity employee if:
 - a. The disciplinary action has been completed and all time periods for administrative appeal have expired; and
 - b. The formal charges were sustained.

- C. The list of public records in this section is not exhaustive and should not be used to limit access to records.

§85. Protected records

- A. The following records are private or otherwise protected and shall not be considered public for purposes of required disclosure:
1. Records concerning an individual's eligibility for social services, welfare benefits or the determination of benefit levels;
 2. Records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation or similar medical data, including psychiatric or psychological data;
 3. Records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status or payroll deductions;
 4. Records concerning a current or former employee of, or applicant for employment with, a governmental entity, including performance evaluations and personal status information such as race, religion or disabilities, but not including records that are public under 2 N.N.C. § 84(A)(2) or (B)(11);
 5. Records describing an individual's finances, except that the following are public:
 - a. Records described in 2 N.N.C. § 84(A);
 - b. Navajo Nation Economic Disclosure Statements filed with the Ethics and Rules Office by elected public officials and candidates for elected public office, pursuant to 2 N.N.C. § 3762;
 - c. Loan applications for Navajo Nation loans to elected public officials and appointed public officials submitted to the Government Services Committee for approval, pursuant to Section 7(c) of the Personal Loan Operating Policies and Guidelines, approved by Resolution CLO-19-88; or
 - d. Records that must be disclosed in accordance with another statute or duly adopted rules and regulations of a governmental entity.
 6. Attorney-client privileged information, materials and work-products, including the mental impressions or legal theories of an attorney or other representative of a governmental entity;
 7. The negotiating position of the Navajo Nation before a contract, lease or other agreement is entered into;
 8. Records prepared by or on behalf of a governmental entity solely in anticipation of litigation that are not available under the rules of discovery;
 9. Information, research and discussions conducted by the public bodies of the Navajo Nation during executive sessions;
 10. Memoranda prepared by staff and used in the decision-making process by a judge or a member of any other body charged by law with performing a Quasi-judicial function;
 11. Information received in response to an invitation for bids or request for proposals before a contract is awarded. Such information will also remain unavailable to the general public after a contract is entered into provided that the information contained in the bid or proposals is proprietary in nature or otherwise to remain confidential at the request of the person submitting the bid or proposal;
 12. Information contained within or related to a contract, lease or other agreement which is proprietary in nature or otherwise to remain confidential at the request of any party to the contract, lease or other agreement;
 13. Records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;
 14. Records which are sealed or otherwise protected by court order due to the sensitive nature of the record in which the privacy interest of the person outweighs the public interest in the information;
 15. Records to which access is restricted pursuant to court rule or as a condition of participation in a state or federal program or for receiving state or federal funds;
 16. Drafts, unless otherwise classified as public;
 17. Information related to the location of an individual member of any threatened or endangered species, such that that individual member could be placed further at risk;

18. Information which cannot be released without interfering with an individual's right to exercise or practice his chosen religion;
 19. Information otherwise protected by applicable laws;
 20. Other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy.
- B. Upon request, a governmental entity shall disclose a private or otherwise protected record as provided for in 2 N.N.C. § 86.

§86. Access to protected documents

Upon request, protected records will be available for disclosure as follows:

- A. Information shall be available for criminal and civil law enforcement for prosecution purposes, internal audit, as a result of a court order, to further an individual's medical treatment and to address public health needs.
- B. Information relating to an individual shall be available to the individual who is the subject of the record, or if a minor, shall be available to the parent or guardian subject to any applicable court order.
- C. Individual records may be released to third parties with the written permission, by means of a notarized release, of the individual who is the subject of those records, or his or her parent or legal guardian if a minor.
- D. Individual records may be used for statistical and other purposes provided that any information which could be used to identify the individual specifically is removed or withheld.
- E. Information about an individual will always be available to other Navajo Nation governmental entities subject to the general restrictions above.
- F. Before releasing a protected record, the governmental entity shall obtain evidence of the requester's identity.
- G. Before releasing a protected record, the governmental entity shall inform the requester that he or she is prohibited from disclosing or providing a copy of the protected record to any other person and shall obtain the requester's written acknowledgment of this prohibition.

§87. Segregation of records

- A. Notwithstanding any other provision in this subchapter, if a governmental entity receives a request for access to a record that contains both information that the requester is entitled to inspect and information that the requester is not entitled to inspect, and, if the information the requester is entitled to inspect is intelligible and able to be segregated, the governmental entity:
 1. Shall allow access to information in the record that the requester is entitled to inspect under this subchapter; and
 2. May deny access to information in the record if the information is exempt from disclosure to the requester, issuing a notice of denial as provided in 2 N.N. C. § 89.
- B. If there is more than one subject of a protected record, the portion of the record that pertains to another subject shall be segregated from the portion that the requester is entitled to inspect.

§88. Procedures

- A. Every person has the right to inspect a public record free of charge, and the right to take a copy of a public record during normal working hours, subject to subsection (H).
- B. All records are public unless otherwise expressly provided by statute.
- C. A person making a request for a record shall furnish the governmental entity with a written request containing his name, mailing address, daytime telephone number, if available, and a description of the records requested that identifies the record with reasonable specificity. The request for information shall be addressed to the governmental entity primarily responsible for compiling such records.
- D. A governmental entity is not required to create a record in response to a request. However, upon request, a governmental entity shall provide a record in a particular format if:
 1. The governmental entity is able to do so without unreasonably interfering with the governmental entity's duties and responsibilities; and
 2. The requester agrees to pay the governmental entity for its additional costs actually incurred in providing the record in the requested format.

- E. Nothing in this section requires a governmental entity to fulfill a person's records request if the request unreasonably duplicates prior records requests from that person.
- F. Within 90 days, the governmental entity shall respond to the request by:
 - 1. Approving the request and providing the record;
 - 2. Denying the request by providing a written explanation of why the record is protected from disclosure. In making such determinations, the governmental entity shall consult with the Department of Justice; or
 - 3. Notifying the requester that it does not maintain the record and providing, if known, the name and address of the governmental entity that does maintain the record.
- G. In the event that the governmental entity determines that the requested record is protected from disclosure, or fails to respond to the request within the 90 day period, the requesting party may make application to the District Court, as defined at 7 N.N.C. § 253, in accordance with the proper processes of the Court for an order compelling the release of the record.
 - 1. This application must meet the notice and filing requirements of the Navajo Nation Sovereign Immunity Act, 1 N.N.C. § 551 et seq.
 - 2. Any person who may have an interest in maintaining the confidentiality of the record may appear and demonstrate the need for maintaining the confidentiality of such record.
 - 3. In determining the availability of any record requested, the District Court shall apply the standards set forth in 2 N.N.C. §§ 84 and 85.
- H. The Navajo Nation may assess the reasonable costs for photocopying and other activities associated with providing the record against the person requesting the record.
- I. The implementation of the Navajo Nation Privacy and Access to Information Act shall be subject to rules and regulations duly adopted by the Government Services Committee. Records released may be subject to reasonable restrictions on use, pursuant to such rules and regulations of the Government Services Committee.

§89. Denials

- A. If the governmental entity denies the request in whole or in part, it shall provide a notice of denial to the requester either in person or by sending the notice to the requester's address.
- B. The notice of denial shall contain the following information:
 - 1. A description of the record or portions of the record to which access was denied, provided that the description does not disclose protected information;
 - 2. Citations to the provisions of this subchapter, court rule or order, state or federal statute or regulation that exempt the record or portions of the record from disclosure, provided that the citations do not disclose protected information;
 - 3. A statement that the requester has the right to make application to the District Court for an order releasing the record and the time limits for filing the application.
- C. Unless otherwise required by a court of competent jurisdiction, a governmental entity may not destroy or give up custody of any record to which access was denied until the period for an appeal has expired or the end of the appeals process.

§90. Ordinances Adopted in Compliance with Subchapter

- A. Each governmental entity may adopt an ordinance or a policy applicable throughout its jurisdiction relating to information practices including access, denials, segregation and appeals.
- B. If any governmental entity does not adopt and maintain an ordinance or policy, then that governmental entity is subject to this subchapter.
- C. Notwithstanding the adoption of an ordinance or policy, each governmental entity is subject to 2 N.N.C. §§ 83, 84 and 85.
- D. Each ordinance or policy shall establish access criteria, procedures and response times for requests to inspect or obtain records of the governmental entity and time limits for appeals.
- E. Each ordinance or policy shall establish an appeals process for persons aggrieved by the access decisions, allowing petition for judicial review to the District Court as set forth at 2 N.N.C. § 88(G).

§91. Criminal Penalties

- A. A public employee or other person who has lawful access to any protected record under this subchapter, who intentionally discloses or provides a copy of a protected record to any other

person is guilty of an offense and upon conviction thereof shall be punished by a fine of not less than \$1000 nor more than \$5000.

- B. It is a defense to prosecution under subsection (A) that the actor released protected information in the reasonable belief that the disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office or misappropriation of public funds or property.
- C. A person who, by false pretenses, bribery or theft, gains access to or obtains a copy of any protected record to which he is not legally entitled is guilty of an offense and upon conviction thereof shall be punished by a fine of not less than \$1000 nor more than \$5000. No person shall be guilty who receives the record, information or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery or theft.
- D. A public employee who intentionally refuses to release a record the disclosure of which the employee knows is required by law or by final un-appealed order from a governmental entity or a court is guilty of an offense and upon conviction thereof shall be punished by a fine of not less than \$1000 nor more than \$5000.

§92. Civil Penalties

- A. A non-Indian who has lawful access to any protected record under this subchapter, who intentionally discloses or provides a copy of a protected record to any other person is subject to civil penalties of not less than \$1000 nor more than \$5000.
- B. It is a defense to a civil action under subsection (A) that the non-Indian actor released protected information in the reasonable belief that the disclosure of the information was necessary to expose a violation of law involving government corruption, abuse of office or misappropriation of public funds or property.
- C. A non-Indian person who by false pretenses, bribery or theft, gains access to or obtains a copy of any protected record to which he is not legally entitled is subject to civil penalties of not less than \$1000 nor more than \$5000. No person shall be subject to civil penalties who receives the record, information or copy after the fact and without prior knowledge of or participation in the false pretenses, bribery or theft.
- D. A non-Indian public employee who intentionally refuses to release a record the disclosure of which the employee knows is required by law or by final unappealed order from a governmental entity or a court is subject to civil penalties of not less than \$1000 nor more than \$5000.
- E. Any non-Navajo person within the Navajo Nation's jurisdiction, as defined at 7 N.N.C. § 254, having been found to be in repeated violation of this subchapter may be subject to the exclusionary provisions of the Navajo Nation, as provided at 17 N.N.C. § 1901 et seq.

RESOLUTION OF THE
NAVAJO NATION COUNCILAdopting the Navajo Nation Privacy and Access to Information Act

WHEREAS:

1. Pursuant to 2 N.N.C. §102 (A) and (B), the Navajo Nation Council is the governing body of the Navajo Nation and all powers not delegated are reserved to the Navajo Nation Council; and

2. Pursuant to 2 N.N.C. §341, the Government Services Committee of the Navajo Nation Council is established and continued as a standing committee of the Navajo Nation Council with the authority to monitor and coordinate the activities of all divisions and departments of the Executive Branch. In addition, pursuant to 2 N.N.C. §343 (B) (5), the Committee is authorized to recommend legislation to the Navajo Nation Council on matters within the Committee's jurisdiction; and

3. The Government Services Committee of the Navajo Nation Council, by Resolution GSCAP-27-99, attached hereto and incorporated herein as Exhibit "B", has recommended that the Navajo Nation Council adopt the Navajo Nation Privacy and Access to Information Act, set forth at 2 N.N.C. Subchapter 4, §§81-91; and

4. Pursuant to 2 N.N.C. §571, the Judiciary Committee of the Navajo Nation Council is established and continued as a standing committee of the Navajo Nation Council with oversight responsibilities for the operation of the Judicial Branch. In addition, pursuant to 2 N.N.C. §574 (E) (2), the Committee is authorized to review legislation and make recommendations regarding any proposed or current laws, procedures and regulations affecting or creating any impact on the Judicial Branch; and

5. The Judiciary Committee of the Navajo Nation Council, by Resolution JCAP-4-99, attached hereto and incorporated herein as Exhibit "C", has recommended that the Navajo Nation Council adopt the Navajo Nation Privacy and Access to Information Act, set forth at 2 N.N.C. Subchapter 4, §§81-91; and

6. The Navajo Nation Council recognizes that a democratic form of government requires that information related to government operations be accessible to the public, while respecting individuals right to privacy. As such, a generally applicable Navajo Nation Privacy and Access to Information Act is necessary to provide the general public with a means to access records and information relating to the operation of the Navajo Nation while preserving the privacy interests of individuals and entities.

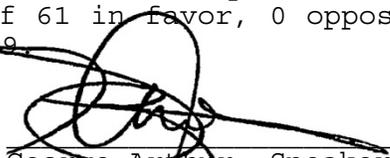
NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Nation Council hereby amends Title 2 of the Navajo Nation Code by adopting the Navajo Nation Privacy and Access to Information Act, as provided in Exhibit "A", attached hereto and incorporated herein.

2. The amendments contained in this resolution shall become effective upon the certification of this resolution by the Speaker of the Navajo Nation Council.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 61 in favor, 0 opposed and 0 abstained, this 23rd day of April 1999.

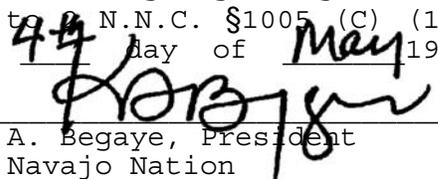

George Arthur, Speaker Pro Tem
Navajo Nation Council

APR 26 1999
Date Signed

Motion: Ralph Bennett
Second: Nelson Gorman, Jr.

ACTION BY THE NAVAJO NATION PRESIDENT:

I hereby give notice that I will not veto the foregoing legislation, pursuant to N.N.C. §1005 (C) (10), on this 24 day of May 1999.


Kelsey A. Begaye, President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (10), this ___ day of _____, 1998 for the reason(s) expressed in the attached letter to the Speaker.

Kelsey A. Begaye, President
Navajo Nation