

MEMORANDUM OF AGREEMENT

This Agreement is made and entered into by the State of New Mexico, Public Education Department (hereinafter "NMPED") at 300 Don Gaspar, Santa Fe, NM 87501-2786 and by the Division of Diné Education, Office of Diné Culture, Language & Community Services (hereinafter "NATION") at P.O. Box 670, Window Rock, Arizona 86515.

WHEREAS:

The NMPED recognizes and acknowledges the unique role and the sovereignty of the NATION to establish and develop standards and criteria in order to determine and to verify the competency of persons to teach the Diné culture and language; and

The NMPED and the NATION desire to cooperate and collaborate in NMPED's licensure of persons who qualify for the Native American Language and Culture Certification for grades K-12;

NOW THEREFORE, the NMPED and the NATION hereby agree as follows:

I SCOPE OF AGREEMENT

The NMPED and the NATION agree that the NATION shall develop, establish, and apply standards and criteria to determine and verify the competency of persons to teach the Diné language and culture. This verification shall meet an essential requirement of the State of New Mexico's Native American Language and Culture Certification. The NMPED and the NATION agree that such determination and verification shall be the sole responsibility of the NATION and is not subject to review or approval by NMPED.

II. TERM OF AGREEMENT

This Agreement shall become effective commencing upon the most recent date of signature by both parties and shall terminate upon written notice by either party in accordance with Paragraph VII.

III. ADMINISTRATION OF THE AGREEMENT

- A. The NMPED and the NATION will each designate and notify the other of a liaison to work cooperatively to implement the terms of this Agreement. The liaison for the NMPED shall be Ms. Penny Bird, Assistant Secretary of Education for Indian Education. The liaison for the Navajo Nation shall be Eddie Tso, Program Director, Office of Diné Culture, Language & Community Services, Division of Diné Education.
- B. The NATION agrees that its verification pursuant to this Agreement is one of several requirements an applicant for a Native American Language and Culture Certification must meet. See Paragraph III.(D)(1). Therefore, the NATION

acknowledges that should and if an applicant is verified by the NATION but the applicant fails to meet other State of New Mexico certification requirements, the applicant shall not be issued a Native American Language and Culture Certificate.

C. The NATION shall perform the following activities pursuant to this Agreement:

1. The NATION shall develop, establish, and apply standards and criteria to determine and to verify the competence of applicants to teach the Diné language and culture. These standards, criteria, and verifications shall not be subject to review or approval by the NMPED.
2. The NATION shall develop, establish, and apply a process by which the NATION shall determine and verify an applicant's competence to teach the Diné culture and language as part of the applicant's initial and/or renewal certification in Native American Language and Culture. Such process shall not be subject to review or approval by the NMPED.
3. Utilizing the process it developed, the NATION shall determine and verify the competence of applicants to teach the Diné language and culture. The NATION shall notify the Professional Licensure Unit of the NMPED by a Verification Notice that documents whether an applicant met the NATION'S standards and criteria or whether the NATION denied verification to the applicant and the reason(s) for the denial. An applicant shall be verified or denied verification based solely on the applicant's meeting, or not meeting, the NATION'S standards and criteria. The verification or denial of verification by the NATION shall be final and not subject to approval, review or appeal by the NMPED.
4. Upon receipt of the Verification Notice by the NATION, the NMPED shall issue a Level I, three-year certification in Native American Language and Culture to the applicant who was verified by the NATION; provided that no other grounds exist, as set forth in Paragraph III.(D)(2), for denying certification to that applicant.
5. The NATION has developed an appeals procedure to be utilized by those applicants who are denied verification by the NATION.
 - a. The appeals decision by the NATION shall be final and not subject to further appeal to or review by the NMPED. This appeals process shall be governed by the laws of the Navajo Nation and any formal adjudication shall proceed in the courts of the Navajo Nation.
 - b. The NATION agrees that an improper implementation or non-implementation of its Appeals Procedures when considering an

applicant's appeal of denial of verification would constitute a breach of this Agreement and would constitute grounds for termination of this Agreement.

- D. The NMPED shall perform the following activities pursuant to this Agreement:
1. The NMPED states that an applicant for a Native American Language and Culture Certificate must satisfy several other requirements beyond the verification by the NATION to qualify for such a Certificate including NMSA 6.60.7 (*Educator Licensure Application Fee*); NMSA 6.60.8 (*Background Checks*); NMSA 6.60.9 (*Code of Professional Responsibility of the Education Professional*); and NMSA 6.68.3 (*Suspension or Revocation of a License Held by a Licensed School Individual*).
 2. The NMPED shall permit an applicant whose application for an initial certification has been denied pursuant to Paragraph III.(D)(3) to request a hearing before the NMPED. The NMPED shall not accept any appeals by applicants who seek to challenge the NATION'S failure to verify their competence to teach the Diné language and culture based on the NATION'S standards and criteria.
 3. The scope of any hearing by the NMPED shall be limited to considering whether:
 - a. the NATION did not properly follow its Appeals Procedure or failed to use its Appeals Procedure when an applicant filed for an appeal of the NATION'S denial of verification;
 - b. the applicant failed to pay the NMPED's application fee pursuant to NMSA 6.60.7 (*Educator Licensure Application Fee*);
 - c. the applicant failed to submit to or to clear a background check pursuant to NMSA 6.60.8 (*Background Checks*);
 - d. the applicant engaged in behavior that violates NMSA 6.60.9 (*Code of Professional Responsibility of the Education Professional*)
 - e. the applicant engaged in behavior that violates NMSA 6.68.3 (*Suspension or Revocation of a License Held by a Licensed School Individual*);
 - f. the applicant engaged in behavior that violates NMSA 6.68.2 (*Denial of Applications for Licenses for School Personnel*).

4. Any hearing held by the NMPED under this Agreement shall be conducted pursuant to the *Uniform Licensing Act*, NMSA 61.1.1 et seq.

IV. RENEWAL OF CERTIFICATION

- A. The NATION shall apply the standards and criteria used to determine initial verification to renewal verification when an individual is applying for a renewal of his/her Native American Language and Culture Certification.
- B. The NATION shall follow the same process for renewal verification that it follows for initial verification. The NATION shall notify the NMPED whether an individual who is applying for a renewal certification was verified or denied verification by a Verification Notice.
- C. The NATION'S standards and criteria for renewal verification are not subject to review or approval by the NMPED.
- D. Upon receipt of the Verification Notice, the NMPED shall issue a Level II, nine-year renewal certification in Native American Language and Culture to the individual who was verified by the NATION; provided that no other grounds exist, as set forth in Paragraph III.(D)(3) for denying renewal certification to that individual.
- E. Any appeal by an individual to denial of a renewal certification shall be limited by condition and scope as set out in Paragraphs III.C(5) and III.D.

V. TECHNICAL ASSISTANCE

The NMPED shall work cooperatively with the NATION to provide technical assistance regarding standards and criteria to determine and to verify the competence of persons to teach the Diné language and culture. Such technical assistance will be provided according to the availability of the NMPED resources.

VI. MAINTENANCE OF RECORDS

The NATION agrees to maintain, store, and safeguard all records relating to the determination and verification of persons' competence to teach the Diné language and culture according to the NATION'S standards and criteria. The NATION agrees to permit inspection of these records by the Secretary of Education, State of New Mexico, or his/her designee for appropriate purposes.

VII. TERMINATION OF AGREEMENT

Either party hereto may terminate the Agreement upon thirty (30) days written notice to the other party. By such termination, neither party may nullify obligations incurred prior

to the effective termination date. Termination of the Agreement shall not operate to negate certifications issued pursuant to the Agreement.

VIII. AMENDMENT TO AGREEMENT

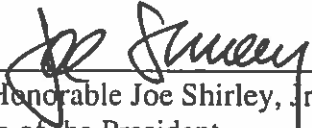
This Agreement shall not be altered, modified or amended except by an instrument in writing executed by the parties hereto.

IX. INTEGRATION OF AGREEMENT

This Agreement incorporates all of the agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such agreements, covenants and understandings have been merged into this Agreement. No prior, simultaneous, verbal or written agreements, covenants or understandings shall be valid and enforceable unless contained and incorporated into this Agreement.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT as of the most recent date of both signatures appearing below.

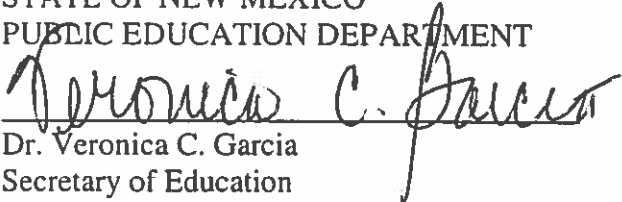
THE NAVAJO NATION



The Honorable Joe Shirley, Jr.
Office of the President
The Navajo Nation
P.O. Box 9000
Window Rock, Arizona 865 5

OCT 19 2004
Date

STATE OF NEW MEXICO
PUBLIC EDUCATION DEPARTMENT



Dr. Veronica C. Garcia
Secretary of Education
State of New Mexico
Public Education Department
300 Don Gaspar
Santa Fe, NM 87501-2786

10/27/04
Date



Penny Bird

STATE OF NEW MEXICO
PUBLIC EDUCATION DEPARTMENT
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DR. VERONICA C. GARCÍA
SECRETARY OF EDUCATION

BILL RICHARDSON
Governor

February 2, 2005

Dr. Harry J. Hayes, Superintendent
Bloomfield Schools
325 North Bergin Lane
Bloomfield, NM 87413-6773

Dear Superintendent Hayes:

Thank you for your recent letter expressing the urgency to expedite the completion of a Memorandum of Agreement (MOA) between the Public Education Department (PED) and the Navajo Nation so that you can maintain your district programs for the Navajo students in your district. I signed this MOA approximately two months ago and once the Justice Department for the Navajo Nation returns this agreement, the MOA will become official.

In the meantime, if you have anyone in mind whom you are considering to hire once this agreement is signed, you might suggest that he/she begin the application process now, so that once the MOA is signed, staff in the Professional Licensure Bureau can expedite the processing of these applications. An application must include a letter from the Navajo Nation indicating that the person is proficient in the Navajo culture and language. Please contact Bernadette Bach in the Professional Licensure Bureau at 827-6581 if you have any questions about the licensure process.

I will inform you when this MOA is received.

Truly,

A handwritten signature in cursive script that reads "Veronica C. Garcia".

Dr. Veronica C. García
Secretary of Education

VCG:wob

cc: Selected PED Staff

