



**Hopi Education Ordinance 36  
Resolution H-33-81**

**Adopted  
May 4, 1981**

**Hopi Board of Education**

*Copy of original*



HOPI  
TRIBE  
EDUCATION  
ORDINANCE



HOPI TRIBE DEPARTMENT OF EDUCATION . ORAIBI, ARIZONA

*(Adopted May 4, 1981 by the Hopi Tribal Council)*

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March 13, 1981

16 MAR 1981

Abbott Sekaquaptewa  
Chairman, The Hopi Tribe  
P.O. Box 123  
Oraibi, Arizona 86039

Re: Draft Hopi Education Ordinance

Dear Abbott:

Robin Harvey has provided us with a copy of the February 18, 1981 Draft of the Hopi Education Ordinance. While she has and will continue to directly provide her input to the Education Committee, we offer the following additional comments:

1. Section 6.4. The last clause, beginning after the last semi-colon, is unclear as to meaning and intent. It is not clear whether or not the Hopi Department of Education will be required to provide assistance to local school boards in appeals against the Hopi Board of Education. The Education Department may find itself in the awkward position of having to defend both sides of such appeals if this is not clarified.

2. Section 7.2. There is a problem in Section 7.2 regarding the establishment of board membership criteria and election procedures in a local school board constitution and bylaws where such constitution and bylaws would not be adopted until after the election of the local school board. Either the Education Ordinance should itself establish criteria for eligibility, number of members on the board, elections, and etc., or it should empower the Hopi Board of Education to do so.

Sections 7.2 and 7.3.B. refer to local school board constitutions and bylaws. The local school boards probably should have "charters" approved by the Hopi Board of Education, rather than self-adopted constitutions and bylaws. If done that way, you would need to add the approval of such charters as one of the powers of the Hopi Board of Education under 6.3. "Certification" under Section 8 could be accomplished by approval of the charter; "decertification" by withdrawing such approval.

3. Section 7.2.B. The school board elections should probably be held at the same time as the tribal council elections. See also Section 8.6.

4. Section 8.3. The references in Section 8.3 to section 9.5 and 10.3 are not needed since those sections merely refer back to Section 8.3 for procedural guidance, which Section 8.3 does not provide. We would suggest adding a new section at some appropriate place, to which Sections 8.3, 9.5, and 10.3 could all refer, which would provide needed procedural guidance. The following is suggested:

A. Appeals to the Tribal Court shall be initiated by the filing of a notice of appeal and serving a copy of such notice on the Hopi Board of Education. Such appeals shall be handled in such manner as the Tribal Court may direct to assure the orderly and complete presentation of evidence and arguments to the Court. The decision of the Tribal Court may be appealed to the Hopi Appellate Court in the manner provided for appeals in civil cases.

B. In any appeal by a local school board to the Hopi Tribal Court which is authorized by this ordinance, the Tribal Courts shall affirm the decision of the Hopi Board of Education if it is reasonably supported by the evidence, is not contrary to law, and does not amount to an abuse of discretion. The burden of proving any of the foregoing shall be upon the local school board instituting the appeal.

5. Section 9.6. Section 9.6 has a typographical error or omission in the second sentence which renders its meaning and intent unclear.

6. Section 12.1.B. It may not be wise to have local school boards competing with each other for contract monies. It may be wise to have all contracting be done by the Hopi Board of Education.

7. Section 12.2.B. The reference to "a tribal resolution as necessary" should be clarified and made specific.

8. Section 12.3. If private religious schools are intended to be given tribal or federal money for educational purposes, then there will have to be a careful examination of constitutional "establishment of religion" considerations.

We are not experts in school administration and cannot really judge the merits of the overall plan. For instance, however, it seems that economies

Abbott Sekaquaptewa  
March 13, 1981  
Page 3

of time, money, and effort could be achieved by allowing a single school board to administer more than one school.

We would be happy to address any specific questions which might be raised in connection with the proposed Education Ordinance.

Sincerely,

Scott C. Pugsley

SCP:bah

cc: Robin Harvey  
Hopi Education Committee

Resolution H-33-81 approves the Hopi Education Ordinance.

HOPI TRIBE  
RESOLUTION  
H- 33 -81

WHEREAS, the Hopi Tribal Council has mandated the implementation of an educational system which will preserve the institutions created by the Hopi Tribal Council, maintain the concept of local schools, and provide all Hopi children with equal educational opportunities; and

WHEREAS, Public Law 95-561 requires that the Tribal Council provide authorization for local school boards to function in governance of local schools; and

WHEREAS, it is essential that standards be established to assure that all Hopi children entering the Hopi High School will be academically competitive; and

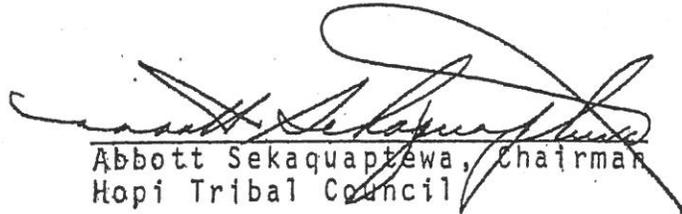
WHEREAS, the Education Committee of the Hopi Tribe has determined that sufficient steps have been taken to insure broad public participation in the formation process.

NOW THEREFORE BE IT RESOLVED that the Hopi Education Ordinance, attached hereto and by reference made a part hereof, be and it is hereby adopted as Ordinance #36.

HOPI TRIBE  
RESOLUTION  
H- 33, -81

C E R T I F I C A T I O N

The foregoing resolution was duly adopted by the Hopi Tribal Council on May 4, 1981, at a meeting at which a quorum was present with a vote of 10 in favor, 1 opposed, 0 abstaining (Chairman presiding and not voting) pursuant to the authority vested in the Hopi Tribal Council by Section 1 (a)(g) of Article VI of the Hopi Tribal Constitution and By-Laws of the Hopi Tribe of Arizona, ratified by the Hopi Tribal Council on October 24, 1936 and approved by the Secretary of Interior on December 19, 1936, pursuant to Section 16 of the Act of June 18, 1934. Said resolution is effective as of the date of adoption and does require Secretarial approval.

  
Abbott Sekaquaptewa, Chairman  
Hopi Tribal Council

ATTEST:

  
Kedric L. Outah, Secretary  
Hopi Tribal Council

HOPI TRIBE  
ORDINANCE NO. 36

ORDINANCE PROVIDING FOR ESTABLISHING:

- the framework for a cooperative and mutually beneficial association of all educational entities located on the Hopi Indian Reservation and serving Hopi people;
- the basis for a comprehensive Hopi Education Ordinance defining Hopi educational interests and setting forth authorities for pursuing those interest;
- in accordance with 25 U.S.C. 2019 (Public Law 95-561, 92 Stat 2328) authorization for the functioning of "local" and "agency wide" school boards.

ADOPTED: May 4, 1981

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## SECTION 1: STATEMENT OF PURPOSE

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The Hopi Tribal Council by establishment of this ordinance intends to:

Establish the framework for a cooperative and mutually beneficial association of all educational entities located on the Hopi Indian Reservation and serving Hopi people; and

Establish the basis for a comprehensive Hopi Education Ordinance defining Hopi educational interests and setting forth authorities for pursuing those interest; and

Establish in accordance with 25 U.S.C. 2019 (Public Law 95-561, 92 Stat 2328) authorization for the functioning of "local" and "agency-wide" school boards.

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## SECTION 2: SHORT TITLE

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This Ordinance shall be cited as the Hopi Education Ordinance.

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## SECTION 3: AUTHORITY

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The authority for this ordinance is Article VI, Section 1. (a), 1. (g), and 1. (1) of the Constitution and By-Laws of the Hopi Tribe.

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## SECTION 4: DEFINITION OF TERMS

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- 4.1 Attendance Area Designation - A description of the geographical area within which a specified school board provides educational services.
- 4.2 Educational Services Designation - A description of the educational services provided by a specific school board to include grade or competency level offering, and any program of such a unique and comprehensive nature as to be potentially beneficial to students residing in other attendance areas.
- 4.3 Existing School Boards - Existing school boards for purposes of this ordinance are Hopi Day School Board, Hopi Mission School Board, Hopi School District #25 Board of Trustees, Hotevilla/Bacavi Community School Board, Keams Canyon Boarding School Board, Moencopi Day School Board, Polacca Day School Board, and Second Mesa Day School Board.

- 4.4 Reservation-wide Educational Standards - Academic performance criteria which shall be set by the Hopi Board of Education as a guideline for developing and implementing educational programs.
- 4.5 Duplication of Educational Services - When, as determined by the Hopi Board of Education, certain types of educational services, offered by more than one local school, can be offered at greater benefits to the students needing the services by a lesser number of schools.
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SECTION 5: DESIGNATION

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5.1 Organization of the Hopi Comprehensive Education System.

The basis of the organization of the Hopi Comprehensive Education system are the local school boards each distinguished from the other in terms of attendance area, educational services provided, and source of financial support. Attendance areas and educational services shall be established as provided in this ordinance and subject to limitations as determined by source of financial support.

5.2 Designation according to source of financial support.

Each local school board shall be designated according to the source of the majority of its financial support:

- 5.2.A Federal - Majority of financial support is public funding derived directly from the federal government.
- 5.2.B State - Majority of financial support is public funding derived through the Arizona State school financing system, and subjecting that school to the provisions of Title 15, Arizona Revised Statutes.
- 5.2.C Private - Majority of financial support is derived through private sources.
- 5.2.D P.L. 93-638 School, Tribal or Contract School - Majority of financial support is public funding derived from the federal government through P.L. 93-638 in which a school may operate under the sanction of the Hopi Tribe.

5.3 School Name

The local school board shall formally designate a name for their school which shall distinguish that school from other schools in the Hopi Comprehensive Education System.

SECTION 6: GOVERNANCE: THE ORGANIZATION POWERS AND DUTIES OF THE HOPI BOARD OF EDUCATION

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6.1 Membership, appointments, terms of office and officers.

- 6.1.A The Hopi Board of Education shall be composed of one member representing each of the school boards in the Hopi Comprehensive Education System. The Hopi Bureau of Indian Affairs Agency Superintendent of Education and the Director, Hopi Department of Education shall be "ex-officio" members of the board.
- 6.1.B Each member, other than the Director, Hopi Department of Education and the Hopi Bureau of Indian Affairs Agency Superintendent of Education shall be appointed by the school board they represent. Such members cannot be employed by an school or educational entity under the jurisdiction of the Hopi Board of Education.
- 6.1.C The initial members of the Hopi Board of Education shall be appointed to terms as herein below specified and thereafter each term shall be four years, expiring on the 31st day in December of the appropriate year.
- 6.1.C (1) The members representing Hotevilla/Bacavi Community School Board and Keams Canyon Boarding School Board shall be appointed for a term ending December 31, 1982.
- 6.1.C (2) The members representing Hopi Day School Board and Polacca Day School Board shall be appointed for a term ending December 31, 1983.
- 6.1.C (3) The members representing Hopi Mission School Board and Second Mesa Day School Board shall be appointed for a term ending December 31, 1984.
- 6.1.C (4) The members representing Moencopi Day School Board and Hopi District #25 Board of Trustees shall be appointed for terms ending December 31, 1985.
- 6.1.D Members representing newly established school boards shall be appointed for initial terms of a duration to insure, as nearly as possible, that an equal number of members will be ending and beginning terms each year.
- 6.1.E Procedures for organizing: The Hopi Board of Education shall hold its first meeting of the calendar year no later than January 15. The first order of business shall be the certification of new board members. The board shall then choose from its membership a presiding officer to serve for a period of one year. The presiding officer of the previous year shall relinquish her/his responsibility unless re-elected. In the event that the outgoing presiding officer's term of

office has expired, he/she shall preside, but not vote in the proceedings until such time as a new presiding officer is selected.

6.2 Meetings, quorums, expense of members.

- 6.2.A The Hopi Board of Education shall hold four regular meetings annually at times it may direct. Special meetings may be called periodically by the presiding officer of the Board. Special meetings shall be announced with agenda items specified not less than forty-eight (48) hours in advance, and publically posted in each of the Community Centers and Post Offices serving Hopi communities.
- 6.2.B A quorum, consisting of a simple majority of certified Hopi Board of Education members shall be present to hold an official meeting of the Hopi Board of Education.
- 6.2.C Concurrence of a simple majority of all members of the Board is necessary for validation of an act of the board.
- 6.2.D All meetings where official action is taken shall be public meetings. Executive sessions of the Board, to discuss, but not act upon sensitive or confidential matters, may be held when deemed advisable.
- 6.2.E Members shall be allowed travel expenses and per diem reimbursement as provided in the Hopi Tribal administrative manual to be paid upon claims approved by the Chief Administrative Officer, The Hopi Tribe, as other claims against the Tribe are paid, from the appropriation for the Board authorized in the Hopi Tribal budget.

6.3 General powers and duties: The Hopi Board of Education shall:

- 6.3.A Keep a record of its proceedings.
- 6.3.B Make rules and regulations for its own government.
- 6.3.C Determine the policy and work undertaken by the Board.
- 6.3.D Take, in accordance with 25 CFR part 31g.6 (c), formal action to approve or disapprove appointments made to Hopi Agency Education office by the Hopi Agency Superintendent for Education.
- 6.3.E Delegate to the Director, Hopi Department of Education, the execution of policies decided upon.
- 6.3.F Serve as Agency-wide School Board with all the responsibilities and authority accorded thereto by P.L. 95-561.
- 6.3.G In accordance with P.L. 95-561 as implemented by 25 CFR 31d 126 (b) and (d) ratify, reject or amend the Hopi Agency financial plan submitted to them by the Hopi Agency Superintendent of Education.

- 6.3.H Devise plans for the increase and management of Reservation-wide education funds to include review and approval of Hopi Agency Education budget expenditures, and submittal of a budget request through the Hopi Department of Education and the Budget Committee of the Hopi Tribal Council for funds necessary for proper maintenance of the Hopi Board of Education.
  - 6.3.I Resolve or cause to be resolved conflicts between local school boards.
  - 6.3.J Assess reservation-wide educational needs.
  - 6.3.K Set reservation-wide educational goals.
  - 6.3.L Set minimum reservation-wide education standards.
  - 6.3.M Serve as the tribal organization authorized by the Hopi Tribal Council to contract for Bureau of Indian Affairs Education Programs and functions as prescribed by P.L. 93-638.
  - 6.3.N Verify attendance area and Educational Services designations of local schools as appropriate in reference to established criteria.
  - 6.3.O Verify eligibility of local school boards for certification according to procedures set forth in Section 8, below.
  - 6.3.P Prepare for presentation to the Education Committee of the Hopi Tribal Council an annual report on the status and future development of the Hopi Education System.
- 6.4 Administrative support provided by Hopi Department of Education.

The Hopi Department of Education shall be responsible for providing administrative support to the Hopi Board of Education. This support will include the selection of an individual, agency or university by the Director, Hopi Department of Education, with concurrence of the Superintendent of Education, Hopi Agency, to provide technical assistance. That individual, agency or university designated will be responsible for assisting any local school board who may, will be under the provisions of this ordinance choose to appeal a determination of the Hopi Board of Education.

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SECTION 7: GOVERNANCE: THE ORGANIZATION, POWERS AND DUTIES OF LOCAL SCHOOL BOARDS

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7.1 Organizational procedures for new and existing school boards.

Within three weeks of election, each of the local school boards shall meet. The meetings of new school boards shall be convened by the

presiding officer of the Hopi Board of Education who will chair the meeting until new members are sworn in and the board chooses a president. At this point, the newly-elected president will chair the rest of the initial meeting. Agenda items shall be election of the remaining officers and the presentation of board certification by the Hopi Board of Education Presiding Officer.

7.2 Organizational Criteria.

Each local school board shall, in its constitution and by-Laws, establish its own criteria for membership, procedures for election, recall and terms of office. The following minimum requirements shall be met:

7.2.A School Board members cannot be employees of the school governed by that school board.

7.2.B The first election authorized by this ordinance shall be held not earlier than November 1, and not later than December 1, immediately following enactment and subsequent elections shall be held on an annual basis not earlier than November 1, and not later than December 1 of each calendar year.

7.2.C Recall and automatic termination procedures shall be specified. The Hopi Board of Education shall be responsible for insuring that established procedures are followed in the conduct of any recall or termination action.

7.2.D Terms of office shall be not less than two years in duration and staggered to provide continuity of membership on the board.

7.2.E Provisions shall be made for the appointment of a representative to the Hopi Board of Education and defining that representative's relationship and responsibility to the local school board.

7.2.F There shall be a minimum of ten (10) regular meetings scheduled per year. From time-to-time the local school board may call special meetings. Special meetings shall be called forty-eight hours in advance of the meeting. Special meeting notices showing specific agenda items shall be posted in prominent places around the community. All meetings where official action is taken shall be public meetings. School boards may call executive sessions to review material before a public meeting.

7.3 General Power and Duties.

All local school boards shall:

7.3.A Keep a record of their proceedings.

7.3.B Establish constitution and by-laws, inclusive, at a minimum of the provisions of Sections 7.2.A - 7.2.F above and providing rules and regulations for their own governance.

- 7.3.C Determine policy and work undertaken by the Board.
- 7.3.D Review and approve the local school financial plan based on direct funding allotments and other resources as might be directly available to the local school.
- 7.3.E Appoint and discharge local school staff according to procedures determined by federal law and/or Hopi Tribal Personnel procedures where applicable. This shall include the right to:
  - (1) Waive Indian preference in accordance with provisions of P.L. 95-561.
  - (2) Establish local certification standards based on articulated need.
  - (3) In the instance of P.L. 93-638 contract schools waive B.I.A. Education standards in accordance with provisions of P.L. 95-561.
- 7.3.F Appoint in accordance with the provisions of Section 6.1 above, a representative to sit on the Hopi Board of Education.

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SECTION 8: CERTIFICATION

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8.1 Eligibility for certification.

School boards seeking authorization to function under the provisions of this document shall be deemed eligible for certification upon verification by the Hopi Board of Education that:

- 8.1.A An attendance area has been defined and is not in conflict with the attendance area of that designated for any other local school board.
- 8.1.B Educational services have been defined and are not a duplication of services provided by any other school board.
- 8.1.C The local school board is organized in compliance with the requirements of this ordinance.

8.2 Action of the Hopi Board of Education to certify local school boards.

Upon verification of eligibility for certification the Hopi Board of Education shall by official action certify local school boards.

8.3 Appeal of the Hopi Board of Education's determination concerning eligibility for certification.

Local school boards may appeal any determination of the Hopi Board of

Education to the Hopi Tribal Court. Appeals of determination concerning eligibility for certification shall be conducted in the following manner:

8.3.A Appeals to the Tribal Court shall be initiated by the filing of a notice of appeal and serving a copy of such notice on the Hopi Board of Education. Such appeals shall be handled in such manner as the Tribal Court may direct to assure the orderly and complete presentation of evidence and arguments to the court. The decision on the Tribal Court may be appealed to the Hopi Appellate Court in the manner provided for appeals in civil cases.

8.3.B In any appeal by a local school board to the Hopi Tribal Court which is authorized by this ordinance, the Tribal Courts shall affirm the decision of the Hopi Board of Education if it is reasonably supported by the evidence, is not contrary to law, and does not amount to an abuse of discretion. The burden of proving any of the foregoing shall be upon the local school board instituting the appeal.

8.4 Previously established school program continue in operation until appeal is completed.

In the event a local school board chooses to appeal, the school program that local school board is conducting at the time it chooses to appeal shall be allowed to continue until the appeal process is completed.

8.5 Responsibilities of certified School Boards.

In addition to authorizing local school boards to exercise the powers delegated by this ordinance, certification shall require each school board to accept for enrollment all eligible students residing within that school boards' designated attendance area. Certification shall further require that school board to provide in full, those educational services and only those educational services specified in the education services designation.

8.6 Deadline for obtaining certification required by this ordinance.

Existing school boards shall organize and hold elections according to the general guidelines of this ordinance not earlier than November 1 and not later than the December 1 immediately following the enactment of this ordinance. Existing school boards shall have one calendar year following the first election authorized by this document to obtain certification as provided in this ordinance.

SECTION 9: ESTABLISHMENT OF ATTENDANCE AREA DESIGNATION

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9.1 Physical Description of attendance area required.

A description of the attendance area with sufficient clarity to make the boundaries readily identifiable shall be developed and maintained for each school in the Hopi Comprehensive Education System.

9.2 Criteria for Hopi Board of Education review of attendance area description; deadline for submittal.

The written description of the attendance area shall be presented to the Hopi Board of Education for review not later than 8 months following the first local school board election authorized by this Ordinance. The review shall include consideration of the following factors:

9.2.A Operational cost

9.2.B Travel time and distance

9.2.C Climatic conditions

9.2.D Local terrain

9.2.E Number of pupils

9.2.F Overlap, if any, with attendance area description of neighboring schools.

9.2.G Maintaining cultural and linguistic consistency within a specific school.

9.3 Hopi Board of Education verification that attendance area description meets criteria.

The Hopi Board of Education shall within thirty days verify that the attendance area description is appropriate, is supportive of reservation-wide educational interests and does not conflict with the description of any other local school.

9.4 Conflicting attendance area descriptions referred back to affected school boards.

Conflicting attendance area designations shall be referred back to the affected school boards for negotiation. Within thirty (30) days from the date of referral the affected school boards shall present modified non-conflicting attendance area description to the Hopi Board of Education or serve notice that they have failed to resolve the conflict.

9.5 Hopi Board of Education will determine attendance areas for local school boards unable to resolve conflict.

In the event that the local school boards, within the prescribed period of time, are unable to resolve the conflict, the Hopi Board of Education shall, within thirty (30) days of receiving notification of failure to resolve the conflict, on the basis of data obtained through its own study of the conflict, designate attendance areas for the local school boards. A period of thirty days in which to appeal as provided in Section 8.3 and 8.4 above shall be available after the Hopi Board of Education's determination. Failure to appeal within the prescribed period of time shall have the affect of making the Hopi Board of Education's determination final.

9.6 Area Attendance Waiver.

Area Attendance Waivers may be issued by the school board of the attendance area in which a student resides, authorizing attendance at a school in another attendance area. In issuing such a waiver a school should consider such factors as educational program offerings, transportation problems or documented need for a student to attend school outside the attendance area of his/her residence. Local school boards may accept a student from outside their designated attendance area at their option. Only those out of area students bearing area attendance waivers may be counted in the Average Daily Attendance for the purpose of computing funding allotment entitlements.

9.7 Modification of attendance area designation.

Designation shall be effected through the procedure prescribed in Sections 9.1 - 9.5 above.

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SECTION 10: ESTABLISHMENT OF EDUCATIONAL SERVICES DESIGNATION

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10.1 Description of local school educational services developed.

A description of educational services shall be developed and maintained to include grade or competency level offering and any unique and/or special program offering, targeting specific students.

10.2 Criteria for Hopi Board of Education review of educational services description and deadline for submittal to Hopi Board of Education.

The description shall be presented to the Hopi Board of Education for

SECTION 10 (con't)

review not later than eight (8) months following the first local school board election authorized by this ordinance. The review shall verify only that educational services described are not a duplication of educational services as defined in this ordinance. The review shall take into consideration such factors as:

- 10.2.A The number of students needing the services.
  - 10.2.B Whether or not all students needing the education services will have access to the services in the location or locations in which they might be provided.
  - 10.2.C The requirements, expense and availability of specially qualified instructors, specialized equipment, and specialized facilities.
- 10.3 Hopi Board of Education recommendation of alternative education services description.

In the event that the Hopi Board of Education should refuse to recommend certification on the basis of the educational services description, the local school board shall within thirty days of the established submission deadline be notified in writing of the reasons for not certifying and an alternative educational services description which the Hopi Board of Education will certify. A period of 30 days shall be allowed in which to appeal in the manner provided in sections 8.3 and 8.4 above, after modification. In the event that the local school board does not appeal, the alternative educational services description becomes the certified educational services designation of that school board.

10.4 Modification of educational services designation.

Modification of educational services designation shall be effected through the procedure outline in 10.1 - 10.3 above.

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SECTION 11: ESTABLISHMENT OF NEW SCHOOLS, MERGER OF EXISTING SCHOOLS

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11.1 Establishment of new schools.

The Hopi Board of Education, when petitioned by not less than 10% of qualified voters in an affected area shall, or at the board's discretion may, cause the necessary documentation to be developed to determine the feasibility of establishing a new school serving Hopi children.

- 11.1.A Within 90 days of receipt of the petition or within 60 days of a majority vote of the Hopi Board of Education supporting the establishing of a new school the Hopi Board of Education shall submit the question of establishing a new school to the qualified voters of the affected area.

11.1.B The ballot shall include a summary of the question, a description of the educational services to be offered and a brief summary of how the school will be operated and funded.

11.1.C A majority vote in favor of establishing a new school shall also authorize the appointment of a local interim school board by the Hopi Board of Education. This interim school board shall be charged with planning and development responsibilities related to the establishment of the new school. The interim school board shall meet certification requirements as prescribed in sections 7, 8, 9, 10 and 11 on or before November 1, following but not less than one year following majority approval of the new school.

11.2 Merger of Existing Schools:

11.2.A When 10% of the qualified electors in adjoining school attendance areas wish to effect a merger of schools serving their attendance areas, they may present a petition to their local school boards who in turn, shall approach the Hopi Board of Education setting forth the reasons for the merger. The Hopi Board of Education shall submit the question of the merger to the qualified electors of the affected attendance areas in the same manner as in Section 11.1.A - 11.1.C above. A majority of voters in each attendance area must approve the merger: If so approved, the merger shall become effective July 1, next, following the election.

11.2.B The Hopi Board of Education may also, at its own discretion, cause a plan to be developed for the merger of schools or school programs. Such a plan would have to be submitted to the qualified voters in the manner prescribed in Sections 11.1.B, 11.1.C and 11.2.A.

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SECTION 12: SPECIAL PROVISIONS

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12.1 Provisions for School Boards operating with Federal Funds under the provisions of P.L. 93-638.

12.1.A Policy - It shall be the policy of the Hopi Board of Education to insure that self-determination be initiated to the greatest extent possible and be exercised to the greatest extent possible at the local school board level.

12.1.B Any local school board shall be eligible to contract as a tribal organization directly with the Bureau of Indian Affairs and other federal, state, local, tribal and private agencies under the authority of P.L. 93-638 or other federal statutes,

provided that local school board has obtained certification in the manner prescribed in this ordinance. All existing local school boards operating on the Hopi Reservation under the terms of an existing resolution of the Hopi Tribal Council may continue to do so provided that within one calendar year after the first election authorized by this ordinance that local school board has come into compliance with the certification requirements of this ordinance.

12.2 Provisions for school boards organized as District Boards of Trustees under Arizona Revised Statutes - Title 15.

12.2.A The Hopi Board of Education shall be the authorized body to which local education agencies operating educational programs on reservation land and serving Hopi students shall be required to submit their policies and procedures for utilization of Federal Impact Aid Funds as required by 20 USC 240 (P.L. 95-561, 92 STAT 2313-2315) for review and approval.

12.2.B A minimum condition of approval of the federal impact aid plan shall be compliance on the part of the submitting district to the applicable provisions of this ordinance, supported by a tribal resolution.

12.3 Provisions for private schools.

Private schools serving Hopi students may at their option participate in the Hopi Comprehensive Education System through obtaining tribal sanction.

12.3.A To obtain sanction, a private school shall obtain attendance area and educational services designation certification as provided in Section 8.1.A and 8.1.B above, and in lieu of the requirements of Section 8.1.C above, submit to the Hopi Board of Education evidence of sound organizational structure and ability to meet reservation-wide education standards.

12.3.B Entitlements of Sanctioned Schools: Sanctioned Schools shall be entitled to full voting representation on the Hopi Board of Education; deemed eligible for participation on Hopi Tribal educational programs subject to program guidelines; and shall participate in Hopi Board of Education reservation-wide educational assessment programs.

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SECTION 13: PRIOR ORDINANCES AND RESOLUTIONS

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This code supercedes and replaces any resolutions or ordinances which are in conflict with this code.

#### SECTION 14: SEVERABILITY

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If any portion of this code shall be ruled invalid by the Hopi Tribal Court, Federal Courts, or courts of competent jurisdiction, that portion shall cease to be operative but the remainder of this code shall continue in full force and effect.

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#### SECTION 15: AMENDMENTS

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This Hopi Education Ordinance may be amended by the Hopi Tribal Council, upon recommendation of the Hopi Education Committee. Action must be taken by a resolution of the Hopi Tribal Council and is subject to confirmation by the Secretary of the Interior. One year after adoption, full review of the ordinance shall be made by the Hopi Board of Education, Hopi Tribal Education Department and Branch of Education, Hopi Agency; sixty days prior to review comments will be solicited on the ordinance from local school boards and communities for consideration. After complete review of the ordinance, any recommendations for changes will be made to be submitted for consideration by the Secretary. Thereafter, complete review of the ordinance will be made bi-annually by the named parties above.

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#### SECTION 16: EFFECTIVE DATE OF THE ORDINANCE

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This ordinance shall be effective upon its approval by the Secretary of the Interior or his authorized representative.

Tribal Operations

May 14, 1981

Memorandum

To: Acting Area Director, Phoenix Area Office  
Attn: Tribal Operations

From: Acting Superintendent, Hopi

Subject: Hopi Tribal Resolution No. H-33-81

We are submitting three copies of the above resolution in which the tribal council adopts Tribal Ordinance No. 36 - Hopi Education Ordinance.

The purpose of the ordinance is to establish the framework for a cooperative and mutually beneficial association of all educational entities located on the Hopi Reservation and serving Hopi people. To establish the basis for a comprehensive ordinance defining Hopi educational interests and setting forth authorities for pursuing those interests.

We have reviewed subject ordinance and in accordance with Article VI, Section 2 of the Tribal Constitution, hereby approve Ordinance No. 36.

Subject ordinance enacted pursuant to Article VI, Sections 1 (a), (b) and (1) of the Tribal Constitution.

Randy L. Sells

Attachments

064.3

## BY-LAWS OF THE Hopi BOARD OF EDUCATION

### 1. REQUIREMENTS

The Hopi Board of Education may adopt by-laws as are necessary to carry out its purpose and functions. By-laws require a two-thirds vote of total membership of the Hopi Board of Education. A copy of the proposed by-law must be submitted by certified mail to the Board members no less than thirty (30) days prior to the date for voting on the proposed by-laws.

### 2. MEETINGS

- a. Regular meetings of the Hopi Board of Education shall be held on a regularly scheduled date for a minimum of four (4) regular meetings per calendar year.
- b. Special meetings may be called periodically by the Chairperson who shall give notice of meetings to all members of the Board and to the general public as specified in 6.2 of Tribal Ordinance#36 within 48 hours prior to the meeting.
- c. All meetings of the Hopi Board of Education shall be open to the public and shall include an opportunity for the public to address the Board. Board members may go into executive sessions only to discuss matters considered confidential or sensitive, but all votes must be made in public.
- d. A simple majority of the Board membership shall constitute a quorum for transaction of business. Each member shall have one (1) vote and all members, excluding the Chairperson, shall vote on each motion. The Chairperson shall vote only in case of a tie. If any member fails to vote, his/her vote shall be recorded as an abstention. An abstention shall signify the member's vote is neither for nor against a motion. Voting shall be recorded by a show of hands or secret ballot. Voting by proxy shall not be permitted.
- e. The agenda for the meetings shall be prepared by the ex-officio officers with the assistance of the Chairperson.
- f. When a regular member or the alternate to the Board has been absent from three (3) duly called meetings within a year without a valid excuse as determined by Board policies, the Board shall notify the respective school board by registered mail recommending replacement of their representative to the Hopi Board of Education.

- g. Any regular Board member may call the meeting to order in the absence of the Chairperson or Vice-Chairperson. A Chairperson Pro-Tem will be elected at a duly constituted meeting from among the members present.
- h. If after one hour a quorum does not exist, the meeting shall be declared as "no quorum." Members present shall be reimbursed for one hour and mileage as specified in the "Rules of Procedure for Council Committees, Article X, Section 5. Quorum requirements.
- i. Board members present at the scheduled meeting time will receive full compensation. Members arriving after the scheduled meeting time will not be compensated until the following hour.

j. Meeting Agenda:

(1) The Order of Business will be as follows

- Call to Order
- Roll Call
- Recognition of Guests
- Approval of Minutes
- Correspondence
- Reports
- Unfinished Business
- New Business
- Adjournment

(2) The latest edition of Robert's Rules of Order shall be the official guide for procedures.

(3) The Hopi Board of Education, after completing Approval of Minutes of the Order of Business, may move to any other item on the meeting agenda. Exceptions will be Article V.A. and V.B. of the Hopi Board of Education's Constitution. However, all agenda items must be addressed.

3. RESPONSIBILITIES OF BOARD MEMBERS

- a. Board members are required to attend all Board meetings.

- b. Regular members will be responsible for notifying their alternate if they are unable to attend a scheduled meeting.
- c. Board members will make reports on the actions of the Hopi Board of Education to their local school boards.
- d. Board members are expected to familiarize themselves with the concerns, issues, relevant data, and possible outcomes of decisions. If they do not have adequate knowledge to make a decision, then they are expected to ask for or seek assistance.
- e. At all times Board members are expected to act in a professional manner.

#### 4. PUBLIC RELATIONS

The Board shall establish and maintain effective, positive communication between all parties as necessary.

All meetings shall be announced with agenda items specified not less than forty-eight (48) hours in advance, and publicly posted in each of the Community Centers and Post Offices serving Hopi communities.

#### 5. FINANCIAL PROCEDURES

- a. Annual allotments are made directly from the Director of Indian Education, Office of Indian Education Programs, BIA, TO THE LOCAL Bureau funded schools.
- b. Approval of expenditures are as follows:
  - (1) The Hopi Board of Education approves the Hopi BIA Agency educational financial plan.
  - (2) An accounting of all expenditures of Hopi Board of Education funds shall be maintained by the designated agency(ies).
  - (3) The BIA Agency Superintendent for Education will act as the responsible agency for the Agency Education Program(s) and will expend funds in accordance with the approved financial plan. He/she will sign all documents required for obligation and/or payment of funds and documentation of receipt of good and services. He/she will report quarterly to the Hopi Board of Education regarding the status of all funds. He/She will make recommendations

for changes in the financial plan for the effective management of resources.

- (4) The terms and conditions involving contracts and proposal will comply with Federal and State established procedures.

6. TRAINING OF SCHOOL BOARDS

The members of the Hopi Board of Education shall receive training as identified by the Board in order to carry out their responsibilities.

7. SCHOOL CALENDAR

The school calendar shall be presented by the BIA Agency.

Superintendent for Education to the Hopi Board of Education at the April meeting for concurrence.

8. AMENDMENTS

a. The Board shall establish procedures that allow for input, study, modification, and approval.

b. All new or recommended changes of Board By-laws or policies are to be presented to each member and to the ex-officio officers in writing and by certified mail no less than thirty (30) days prior to Board action and shall be acted upon within sixty (60) days. The waiting period may be waived with unanimous consent of the Board. All Hopi Board of Education policies and procedures shall be reviewed and updated yearly.

C-E-R-T-I-F-I-C-A-T-I-O-N

I Hereby certify that the foregoing by-laws of the Hopi Board of Education was revised and adopted by the Hopi Board of Education on the 16<sup>th</sup> day of April, 1985 by a vote of five (5) in favor, none (0) opposed, and zero (0) abstaining after full and free discussion on its merits, Chairperson not voting.

ls\ Wayne Dallas  
Wayne Dallas, Chairperson

## **RECALL, PETITION AND ELECTION PROCEDURES**

- 1. A local school board member holding an elective office, either by election or by appointment, is subject to recall from such office by fifty percent of the electors who voted in the last Board election.**
- 2. A recall petition shall not be circulated against a board member until he/she has held office for six months.**
- 3. After one recall petition and elections, no further recall petition shall be filed against the same board member during the term for which he was elected.**
- 4. A recall petition shall contain a general statement of not more than two hundred words stating the grounds of the demand for recall.**
- 5. The petition shall be submitted with the appropriate office, election board, or Chief School Administrator, and the receiving officer shall certify and date receipt of petition for recall, and shall commence action for recall election to be held no later than sixty (60) days after the date of receipt of the petition for recall.**
- 6. Duplicate signatures on a recall petition are not valid and shall be stricken.**
- 7. There is neither authority, grounds, nor method for cancellation of a special recall election for school board members once the election has been ordered to be held.**
- 8. If a person against whom a recall petition is filed desires to resign, the person may do so by filing a written tender thereof with the officer with whom the petition demanding the person's recall is filed within five days, excluding Saturdays, Sundays and other legal holidays after the filing of the petition. In such event the person's resignation shall be accepted and the vacancy shall be filled as provided by election procedure or as required by law.**
- 9. Any person who knowingly gives or receives money or any other thing of value for signing a recall petition, excluding payments made to a person for circulating such petition, is guilty of a misdemeanor.**
- 10. A person who knowingly induces or compels any other person, either directly or indirectly or by menace or threat that he will or may be injured in his business, or discharged from employment, or that he will not be employed, to sign or subscribe, or to refrain from signing or subscribing, his name to a recall petition, or, after signing or subscribing his name, to have his name taken therefrom, is guilty of a misdemeanor.**

11. A person knowingly signing any name other than his own to a petition, except in a circumstance where he signs for a person, in the presence of and at the specific request of such person, who is incapable of signing his own name, because of physical inability or knowingly signing his name more than once for the same recall issue, at one election, or who knowingly is not at the time of signing a qualified elector is guilty of a misdemeanor.

APPROVED AND ADOPTED: 06/18/98

ATTEST: Theresa Lomakema  
Theresa Lomakema / Administrative Secretary  
Hopi Board of Education

## HOPI BOARD OF EDUCATION

### BOARD MEMBER REPORTING POLICY

The Hopi Board of Education is composed of representative's appointed by each local school board in the Hopi educational system. Each board member has the responsibility for making a report of Hopi Board of Education activities and actions to their local representative school board. To facilitate the process of reporting by members of the Board, the following process is established:

1. Each member of the Board is encouraged to accept the responsibility for attending all meetings called by the Hopi Board of Education.
2. Each member of the Board shall be required to report to their local school board on Hopi Board of Education activities and actions.
3. Each member of the Board is encouraged to submit a one page written summary report to their local PTO and school board on each Hopi Board of Education meeting they attend, and to include any pertinent attachments or documents given out at meetings.
4. Each member of the Board is encouraged to invite their local school board members to attend Hopi Board of Education meetings.

APPROVED AND ADOPTED: 06/18/98

ATTEST:

*Theresa Lomakema*  
Theresa Lomakema, Administrative Secretary  
Hopi Board of Education

Resolution H-115-95 amends Ordinance 36 by adding new subsection 6.3 Q "employ a permanent staff as necessary to carry out purpose of this Ordinance."

HOPI TRIBAL COUNCIL  
RESOLUTION  
H-115-95

WHEREAS, the Hopi Tribal Council through Resolution H-31-81 adopted Ordinance No. 36, the Hopi Education Ordinance, to "establish the framework for cooperative and mutually beneficial association of all educational entities located on the Hopi Indian Reservation and serving Hopi people"; and

WHEREAS, Ordinance No. 36 established the Hopi Board of Education as the policy-making body for the Hopi Comprehensive Education System; and

WHEREAS, the Hopi Board of Education was not delegated the authority to hire its own staff of employees to assist the Board in carrying out its duties; and

WHEREAS, the Tribal Council recognizes that the need exists to provide the Hopi Board of Education with a permanent staff.

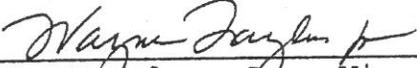
NOW THEREFORE BE IT RESOLVED that the Hopi Tribal Council amends Ordinance No. 36, the Hopi Education Ordinance, by adding to Section 6.3 a new subsection 6.3.Q which will read as follows:

"6.3.Q       Employ a permanent staff as necessary to carry out the purposes of this Ordinance, subject to the availability of funds. The employment of the staff is subject to the requirements of the Hopi Tribe's Personnel Policies and Procedures, until such time the Hopi Board of Education develops and implements its own Policies and Procedures."

HOPI TRIBAL COUNCIL  
RESOLUTION  
H-115-95

C E R T I F I C A T I O N

The foregoing resolution was duly adopted by the Hopi Tribal Council on September 27, 1995, at a meeting at which a quorum was present with a vote of 8 in favor, 0 opposed, 2 abstaining (Vice Chairman presiding and not voting) pursuant to the authority vested in the Hopi Tribal Council by SECTION 1(a) of ARTICLE VI-POWERS OF THE TRIBAL COUNCIL of the Hopi Tribal Constitution and By-Laws of the Hopi Tribe of Arizona, as ratified by the Tribe on October 24, 1936, and approved by the Secretary of the Interior on December 19, 1936, pursuant to Section 16 of the Act of June 18, 1934. Said resolution is effective as of the date of adoption and does not require Secretarial approval.

  
\_\_\_\_\_  
Wayne Taylor, Jr., Vice Chairman  
Hopi Tribal Council

ATTEST:

  
\_\_\_\_\_  
Mary A. Felter, Tribal Secretary  
Hopi Tribal Council

# CONSTITUTION OF THE HOPI BOARD OF EDUCATION

## ARTICLE I – NAME OF ORGANIZATION

This organization shall be the Hopi Board of Education (hereinafter referred to as the “Board”).

## ARTICLE II – PURPOSE AND AUTHORITY

- A. The Hopi Board of Education has been created to establish a Hopi Comprehensive Educational System for the Hopi people as mandated by Hopi Tribal Ordinance #36, Section I, Statement of Purpose.
- B. The Hopi Board of Education derives its authority from Hopi Tribal Ordinance #36, P.L. 95-561, and other federal, state and local laws and operates within the policies established by the Bureau of Indian Affairs, Office of Indian Education Programs.

## ARTICLE II – GENERAL POWERS AND DUTIES

- A. Maintain a record of its proceedings.
- B. Make rules and regulations for its own government, including the adoption of by-laws.
- C. Determine the policy and work undertaken by the Board.
- D. Take, in accordance with 25 CFR Part 31g. 6 (c), formal action to approve or disapprove appointments made to the Hopi Agency Office by the Hopi Agency Superintendent for Education, Hopi Agency, BIA.
- E. The implementation of Board policies is the responsibility of the Director, Hopi Department of Education, and/or the Hopi Agency Superintendent for Education, Hopi Agency, BIA.
- F. Serve as Agency-wide School Board with all the responsibilities and authority accorded thereto by P.L. 95-561.
- G. In accordance with P.L. 95-561 as implemented by 25 CFR Part 31d.1216(b) and (d) devise, ratify, reject or amend the Hopi Agency financial plan submitted to them by the Hopi Agency Superintendent for Education, Hopi Agency, BIA.

- H. Devise plans for the increase and effective management of reservation-wide education funds. Review and approve the Hopi Agency Education budget and expenditures. Submit budget request through the Hopi Department of Education and the Budget Committee of the Hopi Tribal Council for funds necessary for proper maintenance of the Hopi Board of Education.
- I. Resolve or cause to be resolved conflicts between local schools as stated in Hopi Tribal Ordinance #36.
- J. Assess reservation-wide educational needs.
- K. Set reservation-wide educational goals.
- L. Set minimum reservation-wide education standards.
- M. Serve as the tribal organization authorized by Hopi Tribal Council to contract for Bureau of Indian Affairs Education Programs and functions as prescribed by P.L. 93-638.
- N. Approve Attendance Area and Educational Service Designations of local school as appropriate in reference to established criteria.
- O. Verify eligibility of local school boards for certification according to procedures set forth in Hopi Tribal Ordinance #36, Section 8.
- P. Responsible for providing to the Education Committee of the Hopi Tribal Council an annual report on the status and future development of the Hopi Education System.

#### ARTICLE IV – MEMBERSHIP

##### A. Regular Membership

(1) The Hopi Board of Education shall be composed of one member representing each of the certified or sanctioned school boards in the Hopi Comprehensive Education System.

(2) Each member other than the Director, Hopi Department of Education and the Hopi Bureau of Indian Affairs Agency Superintendent for Education, shall be appointed or elected by the school board they represent.

(3) Such members cannot be employed by a school or educational entity under the jurisdiction of the Hopi Board of Education.

(4) Members shall be elected to serve a term of office as outlined in Hopi Tribal Ordinance #36, Section 6.1.C

B. Ex-Officio Members: Agency Superintendent for Education, Hopi Agency, BIA; the Director, Hopi Department of Education; and a representative from the Hopi Tribal Education ;Committee shall be "ex-officio" members of the Board.

C. Alternate Membership:

(1) Each local school board shall also appoint or elect an alternate representative whose term shall be the same as the regular representative from such local school board.

(2) When a regular member is unable to attend a scheduled board meeting the regular member should be represented by the designated alternate.

(3) At such times as the designated alternate is filling the place of an absent regular member such alternate shall be treated for all purposes as a regular member as defined in Section 6.1 of Tribal Ordinance #36.

#### ARTICLE V – OFFICER AND TERMS OF OFFICE

A. The Hopi Board of Education shall hold its first meeting of the calendar year no later than January 15. The retiring Board members shall remain an official part of the Hopi Board of Education until such time as the unfinished business portion of the meeting is completed.

B. The first order of new business shall be the certification of new board members. Board shall have the newly elected member(s) and/or alternate(s) sworn in as a Hopi Board of Education member. The newly elected member(s) and/or alternate(s) shall be seated at the beginning of the New Business.

C. Immediately following the installation of the new member(s), the Hopi Board of Education shall reorganize itself by an election of a Chairperson and Vice-Chairperson. The term of office is for one year which may be succeeded by the incumbent.

D. Duties of Officer:

(1) It shall be the duty of the Chairperson to preside over all meetings of the Board; to appoint all committees as necessary; and to sign Hopi Board of Education decision of record statements, resolutions and certification statements. The Chairperson keeps the Board on tasks, allowing full discussion; but not allowing conversation or other activities to obstruct or drift astray the work of the Board. The Chairperson of the Board assists the ex-officio officers in the

preparation of the agenda and makes assignments to members to facilitate efficient Board operation.

(2) Vice Chairperson: In the absence of the Chairperson, the Vice-Chairperson shall assume all duties of the Chairperson.

#### ARTICLE VI – COMMITTEES

There shall be no standing or permanent committees; however, committees may be formed in order to assure the completion of Board tasks.

#### ARTICLE VII – COMPENSATION AND EXPENSES OF BOARD MEMBERS

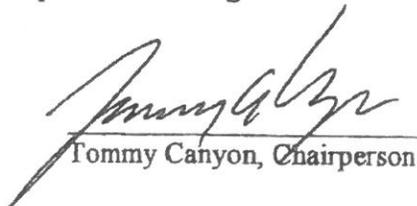
Reimbursement for expenses incurred in the performance of official Board functions shall be made, to the extent practicable, in the amount of \$75.00 per meeting plus the current rate for mileage.

#### ARTICLE VIII – AMENDMENTS

The constitution may be amended by a two-thirds vote of the total membership of the Hopi Board of Education. A copy of the proposed amendment must be submitted to the Board members no less than thirty (30) calendar days prior to the voting date on the proposed amendment and must be acted upon within (30) calendar days.

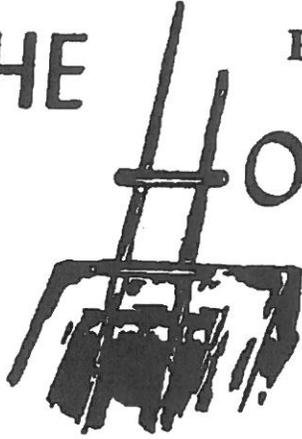
### C- E- R- T- I- F- I- C- A- T- I- O- N

I hereby certify that the foregoing Constitution of the Hopi Board of Education was amended and adopted by the Hopi Board of Education on the 28th day of July, 2009 by a vote of 7 in favor, 0 opposed, and 0 abstaining after full and free discussion on its merits, Chairperson not voting.

  
Tommy Canyon, Chairperson

THE

HOPI BOARD OF EDUCATION



HOPI TRIBE

Wayne Taylor, Jr.  
CHAIRMAN

Phillip Quochoyewa  
VICE-CHAIRMAN

M-E-M-O-R-A-N-D-U-M

TO: Franklin Hoover, General Counsel

FROM: *WJ Numkena*, Executive Director  
Hopi Board of Education

DATE: March 19, 1998

SUBJECT: Legal Opinion RE: Role of Hopi Board of Education

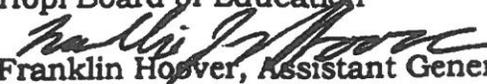
Please be apprised the Hopi Board of Education is requesting a legal opinion per the following:

1. What is the role of the Hopi Board of Education, in the execution of its authorities per Ordinance 36?
2. If the Board was established as to "Serve as Agency-wide School Board with all the responsibilities and authority accorded thereto by P.L. 95-561," (Ordinance 36, Section 6.3.F) is the board strictly limited to the responsibilities outlined in P.L. 95-561, "Bureau Operated Schools Act," or does the Board have authorities, in general, beyond the limitations outlined in P.L. 95-561?
3. Does the Hopi Board of Education have an "independent status" above and beyond P.L. 95-561 to address the broader education issues and concerns impacting the tribe and schools on the Hopi reservation?

Attachments are provided to assist you in your review toward providing a legal opinion. Please contact me at 734-2571 to dialog on this request.

## Memorandum

TO: Will Numkena, Executive Director  
Hopi Board of Education

FROM:   
Franklin Hoover, Assistant General Counsel/Legislative Counsel  
Office of General Counsel

DATE: April 2, 1998

SUBJECT: Request for a legal opinion concerning the role of the Hopi Board of Education

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I am in receipt of your March 19, 1998 memorandum in which you informed me that the Hopi Board of Education requests a legal opinion about its roles and responsibilities under Hopi Tribal Ordinance #36. Specifically, the HBE posed three questions, generally dealing with the Board's powers and duties under the Ordinance. I will respond to each question in the order presented.

**"1. What is the role of the Hopi Board of Education, in the execution of its authorities per Ordinance #36?"**

The Hopi Board of Education is created under Ordinance #36 and is vested with certain powers and duties specified in Section 6.3 of the Ordinance. The Ordinance, in Section 6.2, generally directs the HBE to carry out those powers and duties by holding 4 regular meetings a year, and special meetings as necessary, at which the Board may take actions by the 'concurrence of a simple majority of all members of the Board.' Section 6.2.C. In basic terms, the Board's role is to meet and vote on the matters within its powers and duties.

In addition to the basic role of meeting and voting, the Board has the general authority to decide how to carry out its specific powers and duties. Sections 6.3.B and 6.3.C of the Ordinance give the Board the power to "make rules and regulations for its own government" and to "determine the policy and work undertaken by the Board." As an example, if the Board wishes to carry out its power to "Set reservation-wide educational goals" by setting certain goals for Hopi language education, the final "goal" must be formally adopted by the Board at a meeting, but the Board can designate a member or group of members to research and develop such a "goal," it can establish links with other tribal entities, such as the Cultural Preservation Office or the Villages, to discuss and develop the issue, or do any number of other things to help prepare a "goal" that the Board can formally adopt. The Board can also utilize its staff, the Executive Director and secretary, to help develop proposals for Board actions or research matters before the Board.

The Board, however, does not have any "executive" authorities, meaning that the Ordinance does not give the Board, itself, the authority to carry the policies it establishes into effect or enforce compliance with those policies. Instead, the Board has the power to delegate execution its policies to the Director of the Hopi Department of Education. Section 6.3.E.

TO: Will Numkena, Executive Director  
Hopi Board of Education  
Re: Legal Opinion  
April 2, 1998  
Page 2

**"2. If the Board was established as to 'Serve as Agency-wide School Board with all responsibilities and authority accorded thereto by P.L. 95-561,' (Ordinance 36, Section 6.3.F) is the board strictly limited to the responsibilities outlined in P.L. 95-561. 'Bureau Operated Schools Act,' or does the Board have authorities, in general, beyond the limitations outlined in P.L. 95-561?"**

The Hopi Board of Education was created by the Hopi Tribal Council in Hopi Tribal Ordinance #36. The Board's powers and duties are specified by the Tribal Council in Section 6.3 of the Ordinance. Serving as the Agency-wide School Board for purposes of P.L. 95-561 is one of the Board's powers and duties, but not the only one. The Board has all of the powers and duties enumerated in Section 6.3 of the Ordinance.

**"3. Does the Hopi Board of Education have an 'independent status' above and beyond P.L. 95-561 to address the broader education issues and concerns impacting the tribe and schools on the Hopi reservation?"**

As explained above in response to question #2, the Board has all of the powers and duties specified in Section 6.3 of the Ordinance. These are not necessarily "independent" powers. They are powers delegated to the Board by the Tribal Council through the Ordinance. Those powers include the powers to "assess reservation-wide educational needs," "set reservation-wide educational goals," and "set minimum reservation-wide education standards." Sections 6.3.J, 6.3.K and 6.3.L.

I hope that these observation will be helpful to the Board. please contact me if you have any further questions, or if I can be of further assistance.

xc. Scott Canty, General Counsel  
File