Administrative Law Outline

- For cases on the Labor Commission, see Employment Outline.
- For cases on appellate review of agency decisions, see Appellate Procedure Outline.

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I. Authority of agency

A. Quasi-judicial function

- Agencies, though in the executive branch, may exercise quasi-judicial functions. The exercise does not violate the separation of powers, especially where such matters are particularly critical to the public interest, are subject to regulation under police powers or are subject to review by the courts. *APS v. ONLR*, 6 Nav. R. 246 (Nav. Sup. Ct. 1990).

B. Derives from enabling statute

- District grazing committees and OHA have jurisdiction only over certain types of disputes. They may only act when authorized by the Council. *Gishie v. Morris*, No. SC-CV-36-06, slip op. (Nav. Sup. Ct. June 4, 2008).

C. Special expertise of agency

- It has been a practice of the Supreme Court to give deference to an agency's interpretation of its law. *Barton v. Navajo Nation Ethics and Rules Office*, 8 Nav. R. 353 (Nav. Sup. Ct. 2003).
- One of the principles of administrative law is administrative adjudicatory bodies have special expertise in the subject matter they administer. *Smith v. Red Mesa Unified School Dist.*, 7 Nav. R. 135 (Nav. Sup. Ct. 1995).

D. What constitutes an agency


E. Agencies may not appeal their own decisions

- Boards exercising quasi-judicial functions are not parties to their own proceedings; thus, they cannot appeal from their own decisions. *In re Nav. Bd. of Elec. Supervisors*, 6 Nav. R. 302 (Nav. Sup. Ct. 1990).

F. Agencies may not extend their own jurisdiction

II. Exhaustion of administrative remedies

A. Navajo courts recognize exhaustion of administrative remedies doctrine

- Navajo Supreme Court has recognized and followed the doctrines of primary jurisdiction and exhaustion of administrative remedies. These doctrines permit the agency with expertise to act first and to stay the court’s hand until the agency has completed its process. *Kirk v. ONLR*, 7 Nav. R. 363 (Nav. Sup. Ct. 1998).
- The matter may be resolved administratively, or the agency may find facts that help the court. *Chavez v. Upshaw*, 6 Nav. R. 519 (W.R. Dist. Ct. 1989).
- Exhaustion of administrative remedies is the concept that the agency should complete its procedures before the courts interfere. *Nav. Skill Center v. Benally*, 5 Nav. R. 93 (Nav. Sup. Ct. 1986).
- The doctrine of primary jurisdiction is the concept that the agency should act first. *Nav. Skill Center v. Benally*, 5 Nav. R. 93 (Nav. Sup. Ct. 1986).

B. Diné Bi Beenahaz’áanii

- If one goes to a medicine man and is told to gather materials to enable the medicine man to perform, one's failure to do so will make it difficult or impossible for the medicine man to perform. Similarly, the failure to exhaust administrative remedies slows the processes of the Court and prevents the Court from proceeding. *Begay v. Board of Election Supervisors*, 2 Nav. R. 120 (Nav. Ct. App. 1979).

C. Exhaustion doctrine is not jurisdictional

- The doctrine of exhaustion of administrative remedies is not jurisdictional, but allows a court to dismiss a case if the party did not attempt to resolve the dispute through an administrative process before seeking court review. *Taylor v. Dilcon Community School*, 8 Nav. R. 717 (Nav. Sup. Ct. 2005).
D. Must follow all administrative steps before seeking review

- The doctrine of exhaustion of administrative remedies allows an administrative tribunal to dismiss a claim if the party did not follow the required steps in an administrative process before seeking review. Taylor v. Dilcon Community School, 8 Nav. R. 717 (Nav. Sup. Ct. 2005).
- Exhaustion of administrative remedies is the concept that the agency should complete its procedures before the courts interfere. Blaze Const. v. Nav. Tax Comm’n, 7 Nav. R. 288 (Nav. Sup. Ct. 1997).
- The administrative process has been committed to the agency by the legislature and it should be permitted to run its course. Blaze Const. v. Nav. Tax Comm’n, 7 Nav. R. 288 (Nav. Sup. Ct. 1997).
- Exhaustion of administrative remedies is the concept that administrative agencies should complete their procedures before the courts interfere. Charles v. Furniture Warehouse, 7 Nav. R. 92 (Nav. Sup. Ct. 1994).
- The exhaustion doctrine prevents the courts from interfering until the administrative process has been concluded. Nav. Skill Center v. Benally, 5 Nav. R. 93 (Nav. Sup. Ct. 1986).
- The administrative process has been committed to the agency by the legislature and it should be permitted to run its course. Nav. Skill Center v. Benally, 5 Nav. R. 93 (Nav. Sup. Ct. 1986).

E. Purpose of doctrine

1. Permits parties to resolve grievances before going to courts

- This doctrine of exhaustion of administrative remedies requires parties to attempt to redress their grievance without resorting to the courts. Nav. Skill Center v. Benally, 5 Nav. R. 93 (Nav. Sup. Ct. 1986).

2. Prevents confusion

- The exhaustion doctrine helps prevent confusion between the courts and the administrative bodies which would arise if a party were able to seek relief in two different forums. Blaze Const. v. Nav. Tax Comm’n, 7 Nav. R. 288 (Nav. Sup. Ct. 1997).
- The exhaustion doctrine helps prevent confusion between the courts and the administrative bodies which would arise if a party were able to seek relief in two different forums. Nav. Skill Center v. Benally, 5 Nav. R. 93 (Nav. Sup. Ct. 1986).

3. Judicial efficiency

- The exhaustion doctrine prevents the courts from interfering until the administrative process has been concluded. Blaze Const. v. Nav. Tax Comm’n, 7 Nav. R. 288 (Nav. Sup. Ct. 1997).
- The exhaustion doctrine serves the interests of judicial efficiency and economy; is a process which has been committed to the administrative body by the legislature and it should be permitted to run its course; prevents confusion that may arise if a party seeks relief in two forums; and requires


**F. Exceptions**

- The court recognizes four exceptions to the requirement to exhaust administrative remedies: (1) When the administrative remedy is inadequate; (2) When the complainant would suffer irreparable harm if required to exhaust administrative remedies; (3) When the agency is acting in excess of its authority; or (4) When pursuing the administrative process would be futile. *Blaze Const. v. Nav. Tax Comm’n*, 7 Nav. R. 288 (Nav. Sup. Ct. 1997).

- The court recognizes exceptions to the requirement to exhaust administrative remedies, including when the administrative remedy is inadequate, when the complainant would suffer irreparable harm if required to exhaust administrative remedies and when the agency is acting in excess of its authority. *Charles v. Furniture Warehouse*, 7 Nav. R. 92 (Nav. Sup. Ct. 1994).


- The agency should decide if an exception to the doctrine of exhaustion of administrative remedies applies. *Charles v. Furniture Warehouse*, 7 Nav. R. 92 (Nav. Sup. Ct. 1994).

- Where administrative proceedings were not offered to party, other party may not argue failure to exhaust. *Chavez v. Upshaw*, 6 Nav. R. 519 (W.R. Dist. Ct. 1989).

- Exhaustion will not be required: (1) when the administrative remedy is inadequate. Inadequacy may include unreasonable delay of agency action, inability of the agency to come to a decision or lack of authority to grant the relief to which the party is entitled; (2) when the complainant will suffer irreparable injury if required to exhaust administrative remedies; (3) when the agency is clearly acting or attempting to act in excess of its authority; or (4) when pursuing the administrative process would be futile such as when an agency indicates that it will not consider a party’s challenges to its past policies or decision which are of questionable legality. *Nav. Skill Center v. Benally*, 5 Nav. R. 93 (Nav. Sup. Ct. 1986).

- There is no failure to exhaust administrative remedies where dispute was not required to be submitted to the agency. *Yazzie v. Jumbo*, 5 Nav. R. 75 (Nav. Sup. Ct. 1986).

**G. Parties do not have to wait indefinitely for administrative remedy to conclude**

- Exhaustion of administrative remedies does not mean and has never meant that a party must wait forever for the proper administrative action. It simply means that a person must pursue with diligence the normal administrative process before coming to court. *Chavez v. Upshaw*, 6 Nav. R. 519 (W.R. Dist. Ct. 1989).

- Administrative remedies are exhausted where six months had elapsed and Grazing Committee could not reach decision. *Yabeny v. Tome*, 1 Nav. R. 331 (Nav. Ct. App. 1978).


- Exhaustion of administrative remedies does not mean and has never meant that a party must wait forever for the proper administrative action. It simply means that a person must pursue with diligence the normal administrative process before coming to court. *Brewster v. Bee*, 1 Nav. R. 128 (1977).
• Administrative remedies exhausted where Grazing Committee and Resources Committee failed to act within 60 days of the initiation of a dispute. *Brewster v. Bee*, 1 Nav. R. 128 (1977).

III. Rules of procedure

A. Parliamentary procedure

• The rule is that in the absence of special rules of procedure adopted by a body, or adopted for it by an outside power having the right to do so, its procedure is governed by parliamentary law. *Mustach v. Nav. Bd. of Elec. Supervisors*, 5 Nav. R. 115 (Nav. Sup. Ct. 1987).

B. Quorum

• Under parliamentary law, a quorum, in the absence of a statute or rule defining a quorum, is the majority of a definite or limited number of members. *Mustach v. Nav. Bd. of Elec. Supervisors*, 5 Nav. R. 115 (Nav. Sup. Ct. 1987).

C. Pleadings

• In administrative proceedings, parties will not be held to strict rules of pleading, but the theories relied upon on appeal must be evident from a reading of the record. *Tafoya v. NNBA*, 6 Nav. R. 141 (Nav. Sup. Ct. 1989).

D. Court rules do not apply

• The Supreme Court cannot apply the court system’s procedural rules to proceedings before an administrative agency because that would violate the doctrine of separation of powers. *Staff Relief v. Polacca*, 8 Nav. R. 49 (Nav. Sup. Ct. 2000).
• The Supreme Court cannot apply the court system’s procedural rules to proceedings before an administrative agency because that would interfere with the quasi–judicial independence of the agency. *Staff Relief v. Polacca*, 8 Nav. R. 49 (Nav. Sup. Ct. 2000).
• The Court will not interfere with the operations of an agency with primary statutory jurisdiction. *Staff Relief v. Polacca*, 8 Nav. R. 49 (Nav. Sup. Ct. 2000).
E. Agency may modify its own rules

- Agencies may modify their own rules, so long as they do so within the limits of due process and so long as the modifications do not violate the agency’s governing, enabling statutes. *Dilcon v. Jensen*, 8 Nav. R. 28 (Nav. Sup Ct. 2000).

F. Discovery rules

- An administrative subpoena should issue if it is shown that the investigation will be conducted pursuant to a legitimate purpose, that the inquiry may be relevant to the purpose, that the information sought is not already within the Commissioner’s possession, and that the administrative steps required by the law have been followed. *MacDonald v. Navajo Nation*, 6 Nav. R. 290 (Nav. Sup. Ct. 1990).
- Because of the broad powers of the special prosecutor under the Special Prosecutor Act, the Supreme Court will not quash an administrative subpoena under the theory that the evidence will be used to build a criminal case in violation of the right against self-incrimination. *MacDonald v. Navajo Nation*, 6 Nav. R. 290 (Nav. Sup. Ct. 1990).

G. Parliamentary procedure


H. Disqualification of fact finders for bias or prejudice

- Statement indicating that board member wanted to see a policy changed did not indicate bias. *APS v. ONLR*, 6 Nav. R. 246 (Nav. Sup. Ct. 1990).
- An expression of opinion does not, without more, show that an agency member cannot maintain an open mind during the hearing state of the proceeding. *APS v. ONLR*, 6 Nav. R. 246 (Nav. Sup. Ct. 1990).