

# FALLON PAIUTE-SHOSHONE TRIBE



## EMPLOYMENT HANDBOOK

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### Personnel Policies

**Adopted by the Fallon Business Council**

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**Effective July 1, 2025**

FALLON PAIUTE-SHOSHONE TRIBE  
**EMPLOYMENT HANDBOOK (PERSONNEL POLICIES)**

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## **PART I - INTRODUCTION**

### **Section A. Introduction**

This Employment Handbook has been adopted by the Fallon Business Council (hereinafter referred to as the “FBC”), the governing body of the Fallon Paiute-Shoshone Tribe (hereinafter referred to as the “Tribe”) and consists of seven members: Chairman, Vice-Chairman, Secretary, Treasurer, and three Council Members. This handbook applies to the employees of the Tribe. It does not apply to employees of the Fallon Tribal Development Corporation or independent contractors.

Each employee to which these policies apply will receive a copy of this handbook to review and be familiar with. After reading this handbook, employees must sign and provide to Human Resources the Employee Acknowledgement at the end of this handbook which states that he/she has read and understands the contents of this handbook.

As a federally recognized Indian Tribe, the Tribe is a sovereign nation and has rights of self-determination and government. As such, many federal, state, and local laws do not apply to the Tribe. This handbook does not constitute a contract or create contractual rights. The policies and procedures in this handbook may be changed by FBC with or without notice. This handbook supersedes all previous handbooks and any previous, inconsistent written or verbal policy statements.

This handbook grants authority and responsibility to the Administrator, Directors and supervisors. However, the Chairman, Secretary, and Treasurer have their own staff and in those instances the Chairman, Secretary, or Treasurer shall be substituted for the Administrator, Director or supervisor (as appropriate). Discipline of FBC members in their role as officers is not covered by this handbook, but instead handled by FBC on a case-by-case basis, or addressed in another written policy.

### **Section B. Employee Mission Statement**

The Tribe strives to provide the best possible working environment to our employees and the best possible services to the members of the Tribe and the larger community. Because of our status as a sovereign nation and our public support, we believe that tribal employees have a special responsibility to adhere to the highest standards of professionalism, commitment and diligence. We encourage teamwork and sharing of ideas and information among our employees. This includes open communication between employees and their supervisor to discuss job-related concerns, questions, or suggestions for improving the workplace. In all instances, the highest level of honesty, respect and integrity shall be maintained with all people with whom employees interact, including tribal members, visitors, and fellow employees. We strive to provide our employees with a positive work environment and an opportunity to receive compensation commensurate with ability, education, experience, and job performance, and to be able to advance within the Tribe, limited only by tribal budget allowances. The Tribe believes the Tribe's success depends on serving its members. The Tribe's employees are to attend to members' questions and requests promptly and professionally. Employees are expected to treat members courteously and with the utmost respect at all times and comply with confidentiality policies.

## **Section C. Definitions**

**Approved Absence.** This is an absence from work with proper notification from the employee and approved by their supervisor (i.e., doctor's appointments, children's events, vacation, or sickness/illness with proper notification).

**Conflict of Interest.** Shall mean if an individual is faced with taking an official action or making an official decision which may result in a financial benefit or detriment, either directly or indirectly, to the individual, an Immediate or Extended Family Member, or a business which they are associated with, or any conduct or circumstance that would, or might appear, to affect an individual's independent judgment in exercising their official duties.

**Day.** Means a calendar day, including Saturday, Sunday, holidays recognized by the Tribe, and any full-day administrative day.

**Demotion.** Means the reassignment of an employee to a lower existing position with a lower rate of pay as a disciplinary measure when work or conduct in the current position is unsatisfactory, provided that there is a consensus that the employee can be a satisfactory employee in the lower position.

**Director.** Means an employee that is in charge of a department or program AND is directly under the supervision of the FBC Chairman, FBC Treasurer, FBC Secretary, or Tribal Administrator pursuant to the current Organizational Chart of the Tribe.

**Emergency Call-Back.** An employee is on emergency call-back when an employee has left the work site and is requested to respond (either by returning to work or responding via telephone or computer) on short notice due to an emergency situation at work. Unlike on-call time, which is arranged with the employee in advance, emergency call-back is an unexpected yet necessary response to an emergency situation. If possible, employees will be notified in advance if they are required to be available for emergency call-back.

**Excessive Absenteeism.** Involves a number of absences considered unreasonable and/or that fall above what a department would consider as a "normal" level of absenteeism. The operational and business needs of a department and the circumstances involving the absences will often prescribe whether an absence is considered excessive. This may include, but not limited, to:

- A pattern of absenteeism occurring before or after scheduled days off.
- A pattern of absences occurring on weekends or holidays scheduled as workdays.
- Absences on days previously requested by the employee as a scheduled absence and denied by their supervisor.

**Extended Family Member.** Shall mean to include all Immediate Family Members plus the aunt, uncle, niece, and nephew, and any of the relations established by marriage or adoption.

**FLSA Exempt.** An employee in a position classified as exempt is paid biweekly, is not required under the Fair Labor Standards Act ("FLSA") to receive overtime pay for hours worked in excess of 40 hours in a workweek, and receives a predetermined amount of compensation on a "salary basis." The predetermined amount cannot be reduced because of variations in the quality or quantity of the employee's work. An exempt employee must receive the full salary for any day in which the employee performs any work, regardless of the number of hours worked, and no leave shall be deducted for such day.



**FLSA Non-Exempt.** An employee in a position classified as non-exempt is paid biweekly for each hour worked and is eligible for overtime pay.

**FLSA Public Safety Exemption.** The FLSA provides a partial exemption to employees whose primary duty is law enforcement or fire protection. Employees who qualify for this exemption work a 14-day work period.

**Immediate Family Member.** Shall mean the spouse (including ex-spouse), child, parent, sibling, grandparent, grandchild, step-parent, step-child, step-brother, or step-sister.

**Independent Contractor.** Individuals engaged in an independent trade, business, or profession in which they offer their services to the general public on an independent basis. Typically, such individuals' services have a level of independence and ability to control the manner in which they provide the services separate from another entity or employer.

**Intimate Relationship.** Shall be defined as an interpersonal relationship that involves physical or emotional intimacy and includes, without limitation, dating or sexual relations.

**Mandatory Reporter.** An employee who, as part of their job description or by way of an official written designation, is legally required to report abuse/neglect involving children, elders, or other vulnerable adults. Employees who are identified as mandatory reporters must go through annual training to ensure continued awareness of their responsibilities.

**Nepotism.** The preferential treatment (favoritism), or the appearance of preferential treatment or favoritism, accorded to one's Immediate or Extended Family Member.

**Occurrence.** An occurrence covers consecutive days (shifts) of unscheduled absence when the absences are for the same reason, the first three instances of tardiness combined equal one occurrence and each subsequent instance of tardiness counts as a single occurrence; and/or the failure to follow proper notification processes for absences/tardiness counts as an occurrence.

**On-Call.** An employee is on-call when the employee must remain available to be called into work on short notice if the need arises. The employee must be ready, willing and available to work within one hour of notice that the employee is needed to work. On-call time will be arranged with the employee in advance by management as a part of the employee's work schedule.

**Overtime.** Overtime is time worked by a non-exempt employee that exceeds 40 hours in a workweek. A non-exempt employee is compensated at one and one-half (1.5) times his/her regular rate for hours worked over 40 in a workweek.

**Page.** The specific portion of a social media website where content is displayed and managed by an individual or individuals with administrative rights for that social media website/profile.

**Pay Hiring Range.** The salary offered for any posted vacancy, which must be between Step 1 and Step 7 of the Tribe's current Governmental Pay Scale as adopted by the FBC.

**Performance Probation.** This type of probation is either intended for use by the FBC, as part of the grievance process, to place an employee on notice of their performance problems that must be corrected within a specific length of time; or for existing employees who have accepted a new position within the Tribe and must go through a probation period again as part of their new position. Performance probation shall not have any effect on leave, retirement, and insurance.

**Personally Identifiable Information (PII).** This is defined as information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual.

**Post.** Content an individual shares on social media or the act of publishing content on a site.

**Profile.** Personal information that a user provides on a social media site.

**Public Concern.** Topics that relate to a matter of political, social, or other concern to the community. This does not include topics that relate to employment, personal matters or information learned in the course of employment.

**Qualified Applicant.** Means a person who meets the minimum qualifications as stated in the approved job description and must have the necessary skills, training, experience, and knowledge to perform a particular job adequately, safely, and efficiently.

**Sexually Explicit.** Generally, refers to graphic descriptions or images of sexual acts, nudity, or sexually orientated language, often considered obscene and can include audio, text, or images.

**Social Media.** A category of electronic resources that integrate user-generated content and user participation, such as Facebook, Twitter/X, Instagram, YouTube, Snapchat, etc., and smart phone or other portable device applications.

**Speech.** Expressions or communication of thoughts or opinions in spoken words, in writing, by expressive conduct, symbolism, or images (as related to social media).

**Standby.** Standby refers to the time during an on-call shift that an employee is waiting for a call and not working.

**Supervisor.** The immediate supervisor of a position pursuant to the approved Job Description or the Tribe's Organizational Chart. If there is a conflict, the document that was most recently adopted shall be applicable.

**Tardiness.** This shall mean the failure of an employee to arrive at their work station at a designated time such as the beginning of the shift, returning late from breaks, or early work departure from work.

**Unapproved Absence.** This is an unscheduled absence that is not approved by the supervisor or the employee is a no-call/no-show.

**Workweek.** A period of seven consecutive 24-hour days commencing on Monday, 12:00 am, and ending Sunday, 11:59 pm (Pacific Time).

**Weekend.** Defined as Friday at 6:00 p.m. Pacific time to the start of a regularly-scheduled shift on Monday at 6:00 a.m. Pacific time for a maximum of 60 hours.

**Working Day.** Means a calendar day excluding Saturday, Sunday, holidays recognized by the Tribe, and any full-day administrative day.

## **PART II - EMPLOYMENT**

### **Section A. Equal Employment Opportunity Employer**

This section is designed to ensure an open and competitive method for hiring in compliance with Article VI, Section 1(k) of the Tribe's Constitution. The Tribe strives to be an equal employment opportunity employer, and to comply with all applicable laws prohibiting discrimination based on race, color, religion, sex, age, national origin or ancestry, physical or mental disability, veteran status, and any other basis protected by federal law. Discrimination includes creating a hostile work environment based on any of the above. All employees are prohibited from engaging in this type of conduct.

The Tribe strives to comply with applicable laws protecting qualified individuals with known disabilities and will attempt to reasonably accommodate those who are able to perform the essential functions of the position, unless doing so would create an undue hardship on the Tribe. Any applicant or employee who seeks a disability accommodation should contact the Human Resources Director to request an accommodation.

In addition, the Tribe may give preference to tribal members and to members of other federally recognized Tribes. This is reflected in the Tribe's practices and policies regarding hiring, training, promotions, transfers, rates of pay, layoff, and other forms of compensation.

### **Section B. Official Position Descriptions**

When a need for a new position has been identified or there is a need to update an existing position description, the Director/Supervisor must prepare a description of the position (job title, duties, qualifications, and budget to fund the position) and submit it to the Human Resources Director who may assist in completion of this paperwork. A Job Description Creation/Revision Request form shall be completed (this form is attached as Appendix A). new or revised position descriptions shall be approved by FBC.

Existing position descriptions which are revised to upgrade the salary by three or more grades and/or are being changed from non-exempt to exempt status must be readvertised and existing employees have to reapply for those upgraded positions.

### **Section C. Employment Announcement and Screening**

#### **1. Position Announcement for New Position or Position Vacancies**

For a new position or vacancy, a Personnel Requisition Form shall be completed. The Personnel Requisition Form is attached as Appendix B. A Personnel Requisition Form is considered active until the position is filled.

Approved new positions or vacant positions shall be announced, posted, and advertised for either 10 days (standard), 30 days (enhanced), or open until filled and shall include, at a minimum, the position title, the Pay Hiring Range (steps 1 - 7), and the nature of the work to be performed.

If, in the judgment of the Director/Supervisor, the number of applicants received by the deadline is insufficient, the Director/Supervisor may extend the posting period.

## **2. Applicant Screening Process**

The Human Resources Director (or designee) and the Director/Supervisor will endeavor to take the following steps within 10 working days following the closing of the position announcement:

- a) Verify that all applications, resumes, and/or curriculum vitae are submitted by the posted deadline and are complete and accurate. Applications, resumes, or curriculum vitae that are late, incomplete, or inaccurate may be screened out. Resumes/curriculum vitae maybe accepted in lieu of an application if they contain substantially the same information regarding education and work experience as the Tribe's employment application. However, the Tribe may still need a signed document authorizing any employment verifications and/or reference checks.
- b) Human Resources shall send an Employment Verification/Reference Check form (Appendix C) to at least two recent employers of each applicant, if time permits, to confirm dates of employment, positions held, eligibility for rehire, etc. prior to scheduling any interview.
- c) Analyze the position description to establish screening criteria and review/update interview questions.
- d) Screen verified applications.
- e) Recommend a list of applicants to be interviewed.

All qualified applicants who are FPST members shall receive an interview, however, they must meet the position's minimum qualifications (refer to Qualified Applicants definition).

## **3. Review of Education and Work Experience**

Normally, applicants must meet the minimum education/specialized training and/or work experience qualifications as outlined in the job description. The Tribe may require an applicant to submit a copy of their diploma and/or transcript to verify their education.

- a) If an applicant does not meet the educational/specialized training requirement, then the Director/Supervisor and Human Resources Director may consider a candidate's work experience as a substitute for an educational requirement beyond a high school diploma/GED or specialized training (normally two years' experience equals one year of college). In determining whether to substitute work experience/specialized training for an educational requirement, the relevance, and degree of difficulty and responsibility of the work experience should be considered. Volunteer work experience may be considered, but should be given less weight than paid work experience.
- b) If an applicant does not meet the work experience requirement, then the screening committee may consider education/specialized training beyond high school as a substitute for work experience. In determining whether to substitute education for work experience, the relevance, degree of difficulty, and level of education should be considered.

- c) With approval of the Director, an applicant may be hired without the requirement of a high school diploma or GED. The applicant must be 18 years or older, and be able to pass a proficiency test. In order to maintain employment with the Tribe, the employee must actively strive for achievement of his/her diploma or GED within six (6) months of hire date. The department will, if necessary, make allowance for testing times, with proof of written notice from employee. Employee will have one year to achieve the required diploma or GED; however, if employee is within a short-time (3-6 months) of achieving the diploma or GED, employment status may be extended six (6) months, with approval from the Director and satisfactory work performance and attendance. Regular monitoring will be conducted by the Human Resources Department for proof that employee is actively striving for a diploma or GED. If employee has not made diligent and documented efforts to achieve a diploma or GED before the first anniversary of employment, employment may be terminated. When employee has obtained their GED, they are required to provide a copy to the Human Resources Department for the employee's personnel file.

#### **4. Testing Process**

Applicants eligible for the interview process may be required to take an aptitude, personality, or other tests that the Tribe deems necessary for a specific position, such as mathematics, keypunch, and/or timed typing tests. Reasonable accommodations for disabled applicants may be allowed consistent with Part II, Section A. Any test shall be administered by the Human Resources Director.

### **Section D. Interview Process**

#### **1. Confidentiality of the Process**

All applicant information presented to an interview panel is confidential. Individuals on an interview panel cannot discuss applicant names, personal information, ratings, or any other information pertaining to the applicant or the rating process with anyone not directly involved in the selection process.

#### **2. Questions and Discussion during Interviews**

The Director/Supervisor and Human Resources shall ensure that interview questions are current and reflect the position being interviewed. Questions shall help the interview panel access an applicant's knowledge, skills, and abilities as required to perform the position being interviewed for. Interview panel members are prohibited from asking questions that can identify the following attributes of the applicant during the hiring process: age, citizenship, national origin, race/color, religion, disability, sexual orientation, marital status and family, economic status, police record (unless disclosed by the applicant), or personal details unrelated to the job.

To ensure fairness and equity of opportunity, the questions for each candidate should be same throughout the interview process. Any follow-up questions should be defined beforehand and asked only when a question is not answered. This measure helps to safeguard against unfair treatment of candidates; candidates who are asked, and have the opportunity to answer, additional questions are able to provide more data than other candidates who were not asked the same question.

### **3. Interview Panels**

The Human Resources Department will facilitate the interview process for all positions as listed below. The Tribe should make every effort to conduct in-person interviews with all candidates. If this is not possible as the candidate resides more than 100 miles from the Tribe's blue water tower on the Reservation or due to an emergency, a candidate may be interviewed by teleconference (e.g., Teams, Zoom), however the candidate must have video capabilities so the panel can see the candidate.

No person shall sit on an interview panel if they have a conflict of interest with any applicant, including an Immediate Family Member of any applicant. However, an FBC member may attend an interview to establish or maintain a quorum/majority requirement but the FBC member shall not participate in any discussions or rate/score applicants.

A Candidate Interview Evaluation Form (see Appendix D) shall be completed by each panel member to evaluate each interviewee. Panel members should stay for the entire interview process but if a member must leave the interview early their scores will not be tabulated and used during the evaluation process. Once an interview process has started, an individual may not join the interview panel.

#### **a) Tribal Administrator**

Reviews, interviews, and selections are to be made by a quorum of FBC.

#### **b) Department Director**

Reviews, interviews, and selections are to be made by a majority of the FBC and the Tribal Administrator. The positions referenced under this section are positions that oversee/manage the departments that are directly under the Tribal Administrator pursuant to the Organizational Chart of the Tribe that is current as of the date of the hiring process.

#### **c) Law Enforcement Personnel**

Excluding the Chief of Police position, which is covered above as a Director, the reviews, interviews and selections are to be made by a panel comprised of the immediate supervisor of the position that is being hired, Chief of Police, and at least two members of the FBC.

#### **d) All Other Positions**

Reviews, interviews, and selections shall be made by the Supervisor and a panel of 3-4 other employees, officials, or committee members. The Tribal Administrator and the Director (if different than the Supervisor) will be extended invitations to these interviews and may participate in the selection of a position.

### **4. Merit Selections**

All selections for employment shall be made on the candidate's merit and preference points as provided below. Selection criteria shall include the candidate's knowledge, skills, abilities, and other qualifications, such as education, work experience, employment history, references, and information from background investigations.

If there is a tie between applicants, selection will be based on the Hiring Preference Points, below. If there continues to be a tie after that then the selection will be based on the discretion of the supervisor as to the tied candidates.

## **5. Hiring Preference Points**

Human Resources shall determine the preference category of all applicants (with proper documentation). Qualified applicants shall be given preference points from each applicable category, during the application and interview process, as set forth below:

### **a) Indian Preference - 5 points**

Indian Preference in hiring shall be given to qualified applicants claiming Indian Preference who are enrolled in a federally recognized tribe;

**OR**

### **Tribal Preference - 10 points**

Tribal Preference in hiring shall be given to qualified applicants claiming Tribal Preference who are enrolled in the FPST.

### **b) Veteran's Preference - 5 points**

Preference in hiring shall be given to qualified applicants claiming Veteran's Preference who are discharged with honor and under honorable conditions from the Armed Forces of the United States.

## **6. Selecting the Top Candidate**

The interview panel should review all relevant information, including interview scores, test results (if applicable), employment references, and other materials to determine the top candidate(s). The selection of the top candidate(s) should consider all relevant tools used in the selection process.

The top candidate(s) shall be chosen based on a majority consensus of the interview panel or by the use of the scores from the rating sheet, however, the panel shall also consider the recommendation of the immediate supervisor in the final selection of the candidate(s). The interview panel may also designate a second or third candidate if the initial candidates decline a job offer.

## **7. Appointment Rate**

### **a) Initial Appointment Rate**

Individuals selected for a position shall be given a rate of pay that is commensurate with their education and experience, but in no situation exceeding step 7 of the approved pay scale (with each step from 1 to 7 representing the individuals level of skill and ability).

### **b) Levels above Initial Rate**

An appointment at a pay level above the minimum step levels may be made only with the recommendation of the Human Resources Director based on exceptional qualifications and/or experience, and subject to the approval of the FBC.

**8. Application Retention**

Applications will be retained on file for a period of three (3) months. New applications must be submitted by an individual for any position after this time period.

**Section E. Reduction in Force or Layoff****1. General Provisions**

The Tribe may separate any employee due to a reorganization, downsizing, lack of funds, and/or a grant/contract ending after providing five working days' written notice to the affected employee. No regular status employee shall be separated while there is a probationary, emergency, or temporary employee serving in the same or similar type of position in the Tribe. In such situation, the regular status employee shall be offered the position and the probation, emergency, or temporary employee shall be subject to layoff. Layoff decisions shall be based upon performance and ability, and then upon length of service. Unless specifically noted otherwise, all employment of the Tribe is at-will employment.

**2. Reassignment**

A regular status employee in good standing shall not be terminated as a result of a reduction in force before a reasonable offer of reassignment within the Tribe is made, if available. Reassignment of a regular status employee to a lower class for which the employee is qualified may be made if the employee accepts the lower-class position. If the employee chooses not to accept the lower position there shall be no negative consequences with regard to future tribal employment.

**3. Re-Employment List**

For one year following employment, the names of regular status employees who have been laid-off shall be placed on the appropriate re-employment lists and shall be given first right of refusal to their former position should it become available.

**Section F. Nepotism**

Relatives of employees are eligible for employment if they are the most qualified candidate and provided there is no conflict of interest between relatives. In conducting tribal activities:

1. No member of an interview panel or the FBC shall participate in any portion of the selection or grievance process when a conflict of interest or nepotism exists. However, an FBC member may attend a proceeding if necessary to establish/maintain a quorum but the FBC member shall not participate in any discussions or make a decision in the matter.
2. No employee or member of the FBC shall participate in the personnel action of any individual when a conflict of interest or nepotism exists.
3. No individual shall be promoted or hired into a position that would create a conflict of interest or nepotism.



4. No employee may be hired, transferred or promoted to a position supervised by an Extended Family Member, as defined in this policy.
5. The Director/Supervisor shall have the responsibility to disclose any relationship they may have (or had) with an employment applicant for their respective department. If the Director/Supervisor fails to disclose such a relationship with an applicant, disciplinary measures may be taken in accordance with this policy.
6. Applicants for employment and employees are responsible to disclose any relationship (past or present) with a current tribal employee in the department to which they are applying at the time of initial submission of application. Failure to disclose this information may lead to: 1) discontinued consideration for employment, at that time; or 2) if hired, possible disciplinary measures, up to and including transfer or termination.
7. A Director/Supervisor shall not knowingly hire, transfer, promote or change an employee's work site or position if such change will create nepotism, or conflict of interest, as described in this policy.

If two employees become Immediate Family Members, as defined in this policy, they may not remain in a reporting relationship or in positions where one individual may affect the compensation or other terms or conditions of employment of the other individual. The Director will attempt to identify alternate (available) positions, and the employees will have five (5) days to decide which individual will remain in his/her current position. If this decision by the Director is not made in the time allowed, the Tribal Administrator will make the decision after consultation with the Director/Supervisor and the Human Resources Director.

In the case of any employee who, as a result of the temporary unavailability of their immediate supervisor (e.g., leave status, off-site training, etc.), is a member of the immediate family of their second-level supervisor, the Director/Supervisor shall delegate another management official to handle supervisory functions and personnel actions regarding that employee during the temporary unavailability of the immediate supervisor.

## **Section G. Background Investigations**

To foster a safe workplace with honest, qualified, reliable, safe and non-violent employees, the Tribe may investigate an individual's prior employment history, criminal background, personal references, educational background, and any other relevant, reasonably available information. Any background investigation will be in accordance with the Tribe's *Background Investigations Policies and Procedures* and may include review of an applicant's or employee's credit report.

### **1. Types of Background Investigations**

#### **a) All Positions**

The Tribe requires that a standard criminal background check be completed on all new applicants. Criminal background checks for current employees shall be done at least every two years.

Employees being considered for transfer or hired to a new position in the Tribe, who have successfully completed a criminal background check in the prior 12 months, shall not be required to complete a second background check.

The Human Resources Department will designate the vendor for completing these standard background checks.

**b) P.L. 101-630 Positions**

In addition to the standard criminal background checks, above, the Tribe requires that individuals who are employed in positions that have regular contact with or control of Indian children (in accordance Public Law 101-630) and/or for Elders and other Vulnerable Persons (in accordance with NRS 200.5093), designated as Identified Positions, undergo a thorough background investigation and meet the minimum character standards for suitability as set forth in PL 101-630.

The Human Resources Department will annually review all job positions and identify those positions that are considered to be Identified Positions. The purpose of this annual review is to comply with PL 101-630, and any amendments thereto, to ensure that current Character and Background Investigations are maintained. This enhanced check shall be done at least every five years on current employees.

**c) Other Requirements**

In addition to the standards above, the Tribe's *Background Investigation Policies and Procedures* may set additional checks for tribal positions. In such circumstances, applicants and employees must meet both these requirements and any additional requirements in such policy.

**2. Other Provisions**

**a) Frequency Requirements**

Unless otherwise specified, all employees are required to have either a standard criminal background check or a 101-638 background check redone at a minimum of every five (5) years or sooner if required under other applicable laws/regulations or if the Human Resources Department receives credible information that another background check may be warranted.

**b) Applicability**

All persons being considered for employment with the Tribe, including all contracted and volunteer employees, will be subject to this Part II, Section F. No applicant shall begin employment until at least the standard criminal background check is complete.

**c) Conditional Hire**

Under extenuating circumstances, and only with the prior written approval of the Tribal Administrator and Human Resources Director, the Tribe may offer conditional employment prior to completion of the above Enhanced Background Checks required under P.L. 101-630.

When doing so it must be determined that when children, elders, or other vulnerable persons are in the care or under the control of the individual, the individual must remain within sight of and under the supervision of an employee on whom a background investigation has been completed.

Continued employment is contingent on the outcome of the background investigation and adjudication.

## **Section H. Probationary Period**

### **1. New Hire Probation**

All newly hired employees will be formally evaluated as probationary employees based on time period listed below:

- Law Enforcement Positions..... 18 months
- Directors/Managers..... 6 months
- All Other Positions..... 3 months

During the probationary period, the probationary employee will receive an orientation and training in all aspects of his/her position from their Supervisor or designee. Upon successful completion of the probationary period, the employee will be classified as a regular employee.

During the probationary period, the employee may be terminated without cause and without warning. The Supervisor shall strive to document poor performance, attendance or behavior during the probationary period and review with the employee areas for improvement and, prior to termination, if possible, provide at least one verbal warning which is documented and reviewed with the employee.

With the exception of an employee who returns to work at the same position within 90 days of separation of employment, an employee who returns to work after a separation of employment with the Tribe shall begin a new probationary period.

### **2. Performance Probation**

A current employee that applies for and is offered employment for a new position within the Tribe shall be placed on Performance Probation for a period as specified in the New Hire Probation, above. The employee will be evaluated under the same standards as established in the New Hire Probation, above.

Employees on Performance Probation are entitled to the same benefits enjoyed prior to the Performance Probation, including continued use of leave benefits and access to health and retirement plan (if eligible).

### **3. Extension of Probationary Period**

An employee's probation may be extended, if necessary, for a period not to exceed 90 days cumulative. An extension must be requested prior to expiration of the probationary period and must be accompanied by a Performance Improvement Plan (see Appendix E).

Any period of absence during the probationary period in excess of 160 hours, for any reason except for scheduled vacations, FMLA leave, or as otherwise approved by the Director/Supervisor, shall automatically cause a probation period to be extended for a period equal to the period of absence.

#### **4. Restrictions & Exceptions**

Newly hired employees are not entitled to any benefits (except standard holiday and overtime pay, funeral or bereavement leave, and health care benefits within 90 days under the Affordable Care Act for regular, full-time positions of 30 hours or more) or use of the grievance procedure until they have completed three months of continuous employment in a full-time, regular status position, and have worked a minimum of 416 hours during their probation and 224 hours in the previous - four pay periods. Full-time and part-time employees shall accrue paid time off benefits but shall not be entitled to use them until they have completed their new hire probation period, except Law Enforcement positions who are eligible after six (6) months.

Employees who are on Performance Probation due to a transfer or promotion to a new position continue to receive and utilize any benefits they had prior to the transfer or promotion. These employees are not eligible to utilize the grievance process if they are unable to successfully complete the probation period but may be eligible to return to their prior position, if still available and with the Director's approval.

### **Section I. Employee Orientation**

#### **1. New Hire – Human Resources Orientation**

All newly hired regular staff are required to attend a mandatory new employee orientation. To the extent possible, new staff must attend orientation the first day of employment or the first available date on which an orientation is scheduled. The Human Resources Department must approve departmental requests to begin new staff before orientation. The new employee orientation provided by Human Resources is designed to welcome new staff and begin the process of introducing them to the Tribe and its work environment.

Human Resources will present a general orientation that introduces new staff to the mission and vision of the Tribe; provide an overview of the organizational structure and pertinent tribal policies; and present information regarding employee benefits and provide relevant enrollment documents. The orientation may also include cultural training on the Tribe and cultural sensitivity to understand how to deal with the tribal populace. Employees rehired within one year by the Tribe may not be required to attend new employee orientation.

#### **2. New Hire – Department/Program Orientation**

Departments are responsible for providing new staff an orientation specific to the departmental unit. The department orientation focuses on job responsibilities and competencies, department specific safety policies and procedures, and performance expectations.

### **3. Annual Reorientation Session**

Human Resources will conduct regular annual reorientation meetings with all employees to provide any changes/updates to the Tribe's policies and process, as well as conduct refresher training on critical areas such as confidentiality, cultural sensitivity, etc. These annual sessions can be done either tribal-wide for all employees at one time or broken out and down by departments or areas.

### **4. Employee Identification (ID) Badges**

As a vital part of enhancing security in the workplace and in the event of an emergency, a Tribal ID badge with name, photo, title, and department will be issued to all employees, Business Council members, and contractors. The Tribal ID shall not be defaced or altered with pins, stickers, decals, etc.

Contractors and temporary employees with assignments of four or more weeks will be required to have a Tribal photo ID badge at the cost of the contractor or temporary employee's department. Contractors and temporary employees with assignments less than four weeks will be issued a Tribal ID badge without a photo.

Business Council members will be issued an ID badge with their name, photo, Council position, and expiration date.

All employees are required to wear an ID badge in plain view on a lanyard around the neck or secured with a clip at all times while on the Tribe's property and while performing official job duties out in the field. The requirement may be temporarily waived at the department's discretion when wearing the ID presents a safety issue (e.g. Police Officer). However, the employee must carry the ID at all times during work hours or when acting in an official capacity. It can be placed in a pocket or wallet.

All employees, Business Council members, and contractors of the Tribe will be issued one photo identification card within their first week of employment and/or election to office. The Human Resources Department will be responsible for authorizing the issuance of the ID card. All new employees, Business Council members, and contractors will have their ID cards made electronically by the Human Resources Department or other approved entity. One photo ID badge will be issued at no cost to employee every four years of original issue date. New ID badges will be issued at no cost to the employees who receive a transfer, promotion, demotion, etc. to a different department.

A fee of \$10 will be assessed to the employee to replace all lost, stolen, or damaged badges. Employees who are unable to pay can elect to have the cost deducted from the next payroll check upon submission of a written notice to the Finance Department. This payroll deduction authorization must be done each time an employee needs a new badge.

Employees should report lost or damaged ID badges to their Director/Supervisor who show also notify the Human Resources Department. The employee is responsible for ensuring that a completed ID card request is submitted to the Human Resources Department within five days discovery of a lost or damaged ID badge.

**Section J. Employment Status****1. Employment Classification**

The Tribe utilizes various employment classifications to ensure compliance with Federal Labor Standards Act (FLSA) regulations while meeting the business needs of Tribe. Positions that are deemed exempt from overtime pay in accordance with FLSA regulations are classified as "Exempt". Positions which are not exempt from the FLSA overtime provisions and are eligible for overtime pay in accordance with this policy are deemed as "Non-Exempt" or "Hourly". The FLSA status is listed on each approved job description.

**a) Regular Full-Time**

Employees hired to work thirty (30) hours or more per workweek on a regular basis. Such employees may be classified as Exempt or Non-exempt. These positions are eligible for all provided employee benefits.

**b) Regular Part-Time**

Employees hired to work less than thirty (30) hours per workweek on a regular basis. Such employees may be classified as Exempt or Non-exempt. These positions are not eligible for any benefits except for pro-rated leave and holidays.

For purposes of compliance with the Patient Protection and Affordable Care Act (ACA), PL 111 -148, hours worked may be measured under the "Look Back Period" which is up to twelve months from the date of hire. If an employee is determined to be full-time, rather than part-time, following this review the employee will be converted to full-time status and will become eligible for health benefits within 30 days following the determination.

**c) Seasonal/Temporary Employees**

Employees hired for typically not more than six consecutive months each year. For purposes of compliance with the ACA, hours worked may be measured under the "Look Back Period" which is up to twelve months from the date of hire. No health benefits, if allowable, need to be offered until the end of the measurement period if deemed to be a Full-time employee.

**d) Volunteers**

Individuals who provide their services, skills, and time on a voluntary basis are not eligible for provided benefits or pay and are exempt from provided benefits. Volunteers may be covered by the Tribe's liability insurance where applicable.

**e) Interns, Students, and Residents**

Individuals who are engaged in an unpaid educational assignment and assigned to tribal program(s) are exempt from provided benefits except in those instances where the Tribe has agreed in writing to provide limited coverage under its liability insurance where applicable.

**f) Emergency Appointments**

Whenever there is an urgent need to fill a vacancy, an emergency appointment may be made in accordance with subsection 2 below.

**2. Emergency Appointments**

When an immediate need for a worker is identified, the Director/Supervisor may request authorization from the Human Resources Director and the Tribal Administrator to fill an Emergency Appointment position. Both must authorize the need for an Emergency Appointment.

The individual selected to fill the Emergency Appointment will be from those who have already been selected as qualified for the position, if applicable. If there are none, then applications for similar positions may be used or, if available, former employees of the Tribe who left in good standing. To the extent possible, the normal hiring procedures in Part II, Section C shall be followed.

Individuals in a position pursuant to an Emergency Appointment will not receive benefits and will be employed for no more than 45 days. An extension of up to 45 days of an Emergency Appointment may be made with approval of the FBC, however, in no situation shall an Emergency Appointment exceed 90 days (due to ACA requirements regarding regular employees). This emergency measure is designed to provide an individual to fill a position while allowing six workweeks for the position to be advertised and filled in a normal manner as provided in Part II, Section C. An Emergency Appointment cannot be converted to a Regular Employee. All positions must be advertised and filled by interview and selection.

*Tribal Constitution and Bylaws, Article VI Section 1 (k):*

*"All employment positions of the Tribe shall be hired through open and competitive methods with no provisions permitted for internal (in-house) hiring procedures."*

*BIA Approved on July 1, 2010, for October 28, 2008.*

**Section K. Annual Employee Performance Evaluations**

All Regular Full- and Part-Time employees will be formally evaluated on their prior (12) month work performance. Annual Employee Performance Evaluations will be completed on each eligible employee's anniversary date in their position. The Annual Employee Performance Evaluation will be shared with the employee during a review with the employee and supervisor. Annual Employee Performance Evaluations will be utilized for determining merit pay increases, suitability for transfers, or continued employment.

The employee must sign the Annual Employee Performance Review form to acknowledge receipt but can submit a comment into the personnel file if the employee does not agree with the review. In addition to the formal performance evaluations, the Tribe encourages employees and their supervisor to discuss job performance on an ongoing basis.

At the Annual Employee Performance Evaluation meeting, any employee that operates a vehicle during the course of employment must provide a copy of his or her current driving record from the government agency from which the employee obtained his or her driving license or permit. The Tribe will reimburse the cost of obtaining the driving record upon employee's submission of the applicable receipt.

## **Section L. Pay Increases**

An employee may receive a pay increase by means of a cost-of-living adjustment (COLA), merit increase, pay grade adjustment, and/or merit recognition increase.

### **1. Cost-of-Living Adjustments**

The FBC may authorize COLA increase during the approval of annual operating budgets of the Tribe to reflect change in cost of living, salary comparability, etc. COLA increases are not required and may not be adjusted on a regular basis. A COLA increase is based on changing the rates of pay on the Governmental Pay Scale and, if approved, the pay grades will be adjusted accordingly. COLA may be in addition to the annual merit increases.

### **2. Annual Merit Increases**

Employees may receive a one (1) step increase annually based on their supervisor's recommendation on their Annual Performance Evaluation and availability of funds. The effective date of this calculation shall be the start of the next pay period following the Annual Performance Evaluation and is not retroactive. Employees may continue to receive these annual merit increases thereafter until they reach the last step of the current Governmental Pay Scale to which their position is assigned.

### **3. Pay Grade Adjustments**

Grade levels are set forth in the Governmental Pay Scale as approved by the FBC. A change in a grade does not automatically warrant a pay increase unless the step 1 of the new grade is above the current pay rate. If an employee is at the peak or top of a level, no additional raises can be authorized and employees may be eligible for Longevity Pay. An increase in the amount of work to be performed or added job duties does not typically justify a new grade level unless there are significant changes to duties, responsibilities, and/or qualification requirements.

### **4. Merit Recognition Increases**

An employee that has made a significant contribution or had outstanding service to their department or the Tribe may be eligible to receive an outstanding service award based on the approval of Director/Supervisor and the Human Resources Director. These increases are based on the following guidelines.

- a) Employees approved for a merit recognition increase will be given a one-step increase in their pay (which is in addition to the one step permitted for an annual merit increase).



- b) Merit recognition requests are normally made at the same time as the employee's Annual Employee Performance Evaluation, but may be considered at any time as submitted. An employee, though, may receive only one merit recognition increase per year and no employee may receive more than one merit recognition increase in any 12-month period.
- c) All merit recognition increase requests must be submitted by the employee's Supervisor to the Director (if different from the Supervisor) and the Human Resources Director for review and approval. The request should be the form of a memo/letter detailing the significant contributions or outstanding services that the employee has done to justify the merit recognition increase.

### **Section M. Temporary Combining of Positions**

For up to 6 months, the duties of two or more positions may be combined and carried out by one employee provided that the employee consents to the combining of positions and FBC approves in advance. During that period, the rate of pay shall be at whichever rate of pay of the two positions is higher, and FBC may increase the rate of pay above that in light of the scope of work, level of responsibilities, and duration of the combined position.

At the end of the period, the employee shall return to the previous rate of pay, provided that the employee would receive the benefit of any merit or cost of living increases that would have applied if the employee had remained in the original position during the period the employee served in the combined position.

If a department/program continues to see a need for the combined position, an evaluation of positions that were combined should be done to determine if there needs to be a new position description created for the position. The temporary combining of positions is considered to be short-term and not to exceed six (6) months.

### **Section N. Responsibility Pay (Acting Appointments)**

In the event the Tribal Administrator or a Director/Manager position is temporarily vacant, the Tribal Chairman or the Tribal Administrator may appoint an employee who accepts the additional managerial responsibilities and duties when requested to serve in an acting appointment to the position for a designated period time, with approval of the FBC. Such designations must be done by a Personnel Action Form.

In order to recognize the employee for assuming the additional responsibilities for a designated period, the employee's rate of pay shall be increased to, at a minimum, the starting rate of pay for the vacant position. At the end of the appointment period, the employee shall return to the previous rate of pay, provided that the employee would receive the benefit of any merit or cost of living increases that would have applied if the employee had remained in the original position during the period the employee served in the acting appointment.

**Section O. Personnel Changes**

Any new positions hired and/or any changes to an employee's status (i.e., changes in pay rates, terminations, reduction in force, acting appointments, probationary issues, etc.) must be processed on a Personnel Action Form (PAF) before it can be entered into the Tribe's financial system and the new hires/changes implemented. The PAF is located in the Tribe's Financial Management Policies & Procedures Manual, Form FMP-16.

No actions can occur unless properly submitted for review and approval in accordance with Section 16.20 of the Tribe's Financial Management Policy & Procedures Manual. It is the responsibility of the Director/Supervisor to ensure personnel changes are done in a time-efficient manner.

## PART III - GENERAL WORK POLICIES

### **Section A. Confidentiality**

#### **1. General Provisions**

As a result of employment with the Tribe, employees will be provided, acquire, or have access to confidential and proprietary information belonging to the Tribe. The terms "confidential and proprietary information" shall be construed broadly to include all information that the FBC or tribal management deems confidential and/or proprietary. All employees are required to sign an "Employee Confidentiality Agreement" as part of their new and continued employment with the Tribe (see Appendix F). If an employee is uncertain of the classification or designation of a particular piece of information, the employee should contact their Director/Supervisor or Human Resources for clarification.

Confidential information may include, but is not limited to, medical records, employee records, other personal information regarding tribal employees or former employees, economic development information, legal reviews/opinions, records of criminal investigations, and business or financial records.

Employees shall hold all confidential and proprietary information in the strictest confidence and only use or disclose such information to third parties as necessary to perform employment-related obligations and as authorized by the FBC.

Upon separation of employment, all records of confidential and proprietary information, including any reproduction thereof, shall remain with the Tribe.

#### **2. Personally Identifiable Information (PII)**

##### **a) PII Explained**

It is the intent of the Tribe to protect the privacy of personally identifiable information (PII) that is within its control. PII is information that can be used to identify an individual, whether on its own or in combination with other personal or identifying information that is linked or linkable to an individual. PII can be that of current and prospective employees, tribal members, vendors, visitors, and others.

Federal privacy laws require the Tribe to protect certain elements of PII, often because of the sensitivity of the data and/or its potential for misuse for fraudulent activities or other forms of identity theft. These laws may require the Tribe to self-report and/or provide notice to affected individuals if the security of certain PII is breached.

The U.S. Department of Labor has defined two types of PII, protected PII and non-sensitive PII. The differences between protected PII and non-sensitive PII are primarily based on an analysis regarding the "risk of harm" that could result from the release of the PII:

- i. Protected PII is information that if disclosed could result in harm to the individual whose name or identity is linked to that information. Examples of protected PII include, but are not limited to, social security numbers (SSNs), credit card numbers, bank account numbers, ages, birthdates, marital status, spouse names, educational history, biometric identifiers (fingerprints, voiceprints, iris scans, etc.), medical history, financial information, and computer passwords.
- ii. Non-Sensitive PII is information that if disclosed, by itself, could not reasonably be expected to result in personal harm. Essentially, it is stand-alone information that is not linked or closely associated with any protected or unprotected PII. Examples of non-sensitive PII include information such as first and last names, e-mail addresses, addresses, telephone numbers, general education credentials, gender, or race. However, depending on the circumstances, a combination of these items could potentially be categorized as protected or sensitive PII.

To illustrate the connection between non-sensitive PII and protected PII, the disclosure of a name, business email address, or business address most likely will not result in a high degree of harm to an individual. However, a name linked to a social security number, a date of birth, and mother's maiden name could result in identity theft. This demonstrates why protecting the confidential information of all individuals is so important and a major requirement for all employees of the Tribe.

#### b) **Protection and Handling of PII**

The following requirements apply to PII in paper records, electronic records, and in oral communications, as well as any aggregation of PII in an electronic format (e.g., databases, webpages, e-mail, spreadsheets, tables, and file-sharing services such as OneDrive, Dropbox, etc.).

- i. **General.** In addition to complying with all applicable legal requirements, the Tribe further limits the collection, use, disclosure, transmission, storage and/or disposal of PII to that which fulfills the mission and responsibilities of departments and the Tribe.
- ii. **Safeguards.** To protect PII against inappropriate access, use, disclosure, or transmission, the Tribe requires appropriate administrative, technical, and physical safeguards. Directors are responsible for documenting security controls and safeguards and risk management consistent with this policy. Examples of physical safeguards include storing documents containing PII in secured cabinets or rooms and ensuring that documents containing PII are not left on desks or in other locations that may be visible to individuals not authorized to access the PII.
- iii. **Collection.** Collected data should be appropriate for the intended authorized use, and collection should be conducted according to best practice and legal requirements for the type and purpose of data collected. Since the collection process itself can potentially lead to unintended PII disclosure, considerations of confidentiality in collection and recording should be explicitly addressed.

- iv. **Minimization.** All tribal employees are responsible for minimizing the use of PII (including redaction of financial account information, use of less sensitive substitutes such as partial SSN) and minimizing aggregations of PII. The risk of unauthorized disclosure of, or access to, PII increases with the amount of data. All tribal employees are responsible for ensuring that the number and scope of physical and electronic copies and repositories of PII are kept to the minimum necessary and only for the period when a valid business need for the information exists.
- v. **Permitted Use.** Only individuals within the Tribe who are permitted under law, regulation and tribal policies and have a legitimate "need to know" are authorized to access, use, transmit, handle or receive PII, and that authorization only extends to the specific PII for which the relevant individual has a legitimate "need to know" to perform his or her job duties.
- vi. **Permitted Disclosure to Third Parties.** The Tribe may release PII to third parties only as permitted by law/regulation or by specific written authorization from the individual whose PII is involved. Tribal contractors to whom the Tribe is disclosing PII must be bound by agreements with appropriate PII safeguarding and use provisions.
- vii. **Oral Communications.** Only authorized individuals may engage in oral communications involving PII. Caution is required in all oral communications involving PII, and oral communications involving PII may not take place in any location where the communication may be overheard by an individual not authorized to access the PII.
- viii. **Storage of PII.** PII may be stored only as necessary for the Tribe's mission and authorized purposes of its departments/programs. Directors are responsible for providing guidelines around where information can be scanned/stored (e.g. in hardcopy, on shared drives, on other media/devices) and how long information may be retained before requiring deletion or destruction). In addition, the Tribe is responsible for maintaining an up-to-date inventory of stored or maintained documents, files, databases and data sets containing PII, and their contents, and requiring encryption of PII stored on mobile devices, media, or other at-risk devices such as public workstations.
- ix. **Transmission of PII.** PII may not be transmitted to external parties outside the Tribe (e.g. via mail, fax, e-mail, instant messaging) without appropriate security controls. Generally, such controls include encryption and authentication of recipients (e.g., password protection of files; verifying fax numbers; cover sheets; marking documents as confidential). Great care is to be taken to ensure that e-mails are sent only to intended recipients.
- x. **Disposal.** PII must be destroyed and rendered unreadable before disposal. For example, this may include shredding papers or wiping electronic files.
- xi. **Training.** Each department is responsible for ensuring that appropriate training is provided on PII and other provisions regarding confidentiality before accessing, using, transmitting, handling, or receiving PII.

### **3. Personnel Files**

Personnel files are maintained for each employee. Personnel files are the property of the Tribe and the information contained therein may be shared by tribal management as needed in the best interests of the Tribe. All personnel files shall be kept in the Human Resources Department. Employees must report any changes, such as address, phone number, or dependents, if applicable, to the Human Resources Department by providing a completed Personnel Action Form.

All information contained in a personnel file is confidential, including without limitation dates of birth, social security numbers, and bank account information. Access to personnel files may only occur for official tribal business, by court order, or other lawful authority.

Medical information is not included in personnel files. The Tribe will safeguard such information from disclosure and will disclose that information only as required by law or if the employee provides consent to its release.

These rules apply to current and former employee personnel files.

Once per year, or if there are reasonable grounds for more frequent access, a current employee may review or request a copy of their personnel file by submitting a written request submitted to the Human Resources Director. A former employee of the Tribe may receive a copy of their personnel file if submitted within 90 days of their separation of employment.

The Human Resources Department shall retain personnel files on employees for seven (7) years following their separation of employment, unless, depending on the type of records included, a longer retention period is required. After that time, these records shall be disposed of in accordance with any retention and disposal processes of the Tribe unless the Tribe requires an electronic archive be maintained for these files.

Records regarding employee medical information, hazardous exposure incidents, required OSHA reporting, or other documents required to be kept under a tribal employee health/safety policy should be kept separate from an employee's personnel file. These records, known as an Employee Safety File, shall be maintained for the prescribed amount of time set forth by OSHA and/or tribal health/safety policies.

### **4. Enforcement and Exceptions**

Each department is responsible for ensuring that its confidentiality handling practices are consistent with the practices described in this section. This responsibility includes the entire set of activities within enforcement, including surveillance and detection of non-compliance with this section, the identification and implementation of the individual and department-level corrective actions, and (where appropriate) the imposition of disciplinary action. As a practical matter, it may be occasionally necessary and appropriate to diverge from these best practices to advance the Tribe's mission. In such cases, it is the responsibility of the Director of a department to ensure that such divergences are approved, documented, and communicated to stakeholders.

## **5. Breaches of Confidentiality**

Known or suspected violations of confidentiality should be reported promptly. Any incidents that have the potential to damage departmental and/or tribal operations should be reported immediately. Violators of this policy may be subject to any applicable criminal and/or civil penalties and to disciplinary action in accordance with this Employment Handbook, including termination.

## **Section B. Dress Code and Personal Appearance**

The Tribe is a professional government organization with business interests and expects its employees to maintain a standard of dress consistent with such an entity. Directors are responsible for developing and administering a written “dress code” consistent with their department’s assignment and their working and environmental conditions. However, in the interests of safety and professionalism, these minimum provisions shall apply tribal-wide with additional measures and/or restrictions as detailed in a department’s “dress code”:

1. Open-toed shoes are acceptable. These shoes may be prohibited in departments where safety and workplace requirements dictate.
2. Clothing that contains offensive sayings, drawings, advertisements, photos, etc., is not allowed unless such clothing is part of a Tribe authorized sales promotion or uniform.
3. The employee must cover tattoos that are offensive or suggestive.
4. All make up, application of cologne/perfumes, and related personal hygiene products are to be applied or worn with restraint and consistent with departmental dress standards.
5. Employees will practice acceptable oral and personnel hygiene consistent with generally accepted social practices.
6. The wearing of jewelry and body piercing must be consistent with office and safety standards.

The employee’s supervisor will make the determination as to the dress and/or hygiene of the employee and may discreetly send the employee home, on their own time, and allow the employee to return after correcting any deficiencies. Supervisors should have these discussions privately as to avoid embarrassing the employee or creating unwarranted attention.

## **Section C. Statements to the Media**

All media inquiries regarding the Tribe or its operations must be referred to the FBC and/or FBC Chairman. Only the FBC, FBC Chairman, or their designees are authorized to make or approve public statements pertaining to the Tribe or its operations.

## **Section D. Insider Trading Policy**

The Tribe forbids an employee from using non-public tribal information to his or her financial advantage, or communicating such non-public information to others. Information is considered non-public until it has been communicated to the tribal membership.

**Section E. Visitors**

Generally, friends and relatives should be asked not to visit employees during working hours. Employees may have an occasional visit from a friend or relative, provided advance approval is obtained from their supervisor. Any visit must be arranged to minimize disruption of work. Absent an emergency, children are not allowed on the premises for more than four hours per day. Unattended children are not allowed in the work areas or on the premises at any time. When a child is on work premises, the parent or guardian shall attempt to minimize the spread of germs/infectious diseases by ensuring proper hygiene standards. The Tribe is not liable for any harm to the child due to the child visiting work premises. The Tribe may require the issuance of visitor passes and/or require visitors to sign in and out.

**Section F. Tobacco Prohibited**

The Tribe maintains a smoke- and tobacco-free office. No smoking or other use of tobacco products (including, but not limited to, cigarettes, e-cigarettes or vaping devices, pipes, cigars, snuff, or chewing tobacco) is permitted in any part of the building or in vehicles owned, leased, or rented by the Tribe. Employees may smoke outside in designated areas during breaks. When smoking or otherwise using tobacco products outside, employees shall not leave cigarette butts or other traces of litter or tobacco use on the ground or anywhere else.

**Section G. Employee Property**

The Tribe assumes no responsibility for the loss, theft, or damage of employee personal property including employee vehicles, anytime an employee is conducting official business. Any valuable personal property brought to work should be kept in a secure location.

**Section H. No Solicitation and Distribution for Non-Tribal Purposes**

Unless approved in advance by the Director/Supervisor or his or her designee, employees shall not, during working hours: (1) attempt to sell goods or services to fellow employees or members of the public without a current tribal business license; (2) solicit or promote support for any cause or organization; or (3) distribute or circulate any written or printed material. The Tribe specifically prohibits political activity during working hours. This policy shall not prohibit activities that are for a tribal purpose and within the scope of employment.

**Section I. Housekeeping**

All employees are responsible to maintain their desk/work areas in an orderly fashion and pick up after themselves when using the break room, locker room, restroom, or other common areas.

**Section J. Bulletin Boards**

Bulletin boards are reserved for the exclusive use of the Tribe for posting work-related notices or public notices. Please check the boards for these notices. All postings must be authorized by the Tribe.



**Section K. Telephones**

While at work, employees are expected to perform their job duties and responsibilities. Personal calls on tribal phones (landlines, cell, etc.), both incoming and outgoing, except during authorized breaks, must be kept to a minimum. Long distance calls on landline phones are prohibited unless approved by the Director/Supervisor. Tribally-provided cell phones are for work use only and any personal use should be limited. Employees who are assigned a cell phone must sign and acknowledge a Mobile Device Usage and Regulations form (see Appendix G).

**Section L. Use of Tribal Property and Right to Inspect**

The property of the Tribe includes, without limitation, desks, storage areas, work areas, lockers, file cabinets, credenzas, computers and their systems, office telephones, mobile telephones, modems, facsimile machines, duplicating machines and vehicles. Tribal property must be used properly and for work purposes only, maintained in good working order and not lost or stolen. Any employee who damages or loses tribal property may be liable to the Tribe for the repair or replacement cost.

Employees only may use, access, duplicate, remove or disseminate tribal electronic or non-electronic records for which permission to do so has been granted. Upon request, employees must provide information (such as a password) needed to access such records. Employees may not encrypt records or otherwise make records inaccessible without permission from his or her supervisor. Unless permission is granted by the Tribal Administrator and the Director/Supervisor, employees should never access any technical resources using another employee's password.

Each tribal department is responsible for its own policy regarding shredding records.

When using the Tribe's devices (computers, phones or other technology), employees may create, send, retrieve or receive images, text, recordings, documents, and other material that is part of a tribal technological asset. While the Tribe respects the individual privacy of its employees, that privacy does not extend to an employee's work-related conduct or to tribal property or its contents, which is at all times the property of the Tribe. Tribal devices are provided for business use therefore personal use is to be kept to a minimum and employees must protect them and ensure they are only used by the employee, and returned when their employment ends with the Tribe. Employee should not load personal accounts on the tribal devices. Employees must notify their supervisor and the Tribe's IT Department when a tribal device is lost or destroyed. Viewing, sending or saving pornographic and/or sexually explicit material is prohibited.

At any time and without prior notice, the Tribe may monitor, inspect and search any and all of its property or question an employee to determine whether this policy or any other policy of the Tribe has been violated, to protect the Tribe's property, to promote safety in the workplace, or to comply with tribal and other applicable law. Inspections may be conducted during or after business hours and in the presence or absence of employees. Passwords, codes or locks may be overridden to accomplish any inspection or search.

Prior to carrying out any inspection or search described in this paragraph, authorization must be obtained from the Director/Supervisor and either the Tribal Administrator or Human Resources Director.

**Section M. Use of Email and the Internet**

E-mail and Internet access is a tribal asset of its communication system. As such, it is incumbent upon all employees who use such systems to adhere to the professional standards of use outlined in this section. Violations of these email and internet provisions are subject to disciplinary action in accordance with this policy.

**1. E-Mail Provisions**

The E-mail system is provided by the Tribe for employees to facilitate the performance of their work and the contents of the e-mail system are the property of the Tribe. The Tribe does make a practice of monitoring these systems and management reserves the right to retrieve the contents for legitimate reasons. E-mail use by employees is intended for business. Personal exchange of information shall be minimized and will be monitored for abuse. Employees will exercise good judgment regarding the reasonableness for personal use. Use of E-mail is limited to employees and certain tribal contractors.

Employees and authorized users are responsible to maintain the security of their account and their password. Employees must take precautions to prevent unauthorized access to their mailbox by logging off when possible if their terminal is unattended. Unauthorized entry to an individual's account or mailbox poses system security issues for other users.

Misuse of E-mail can result in disciplinary action up to and including termination. Examples of misuse include the following: obscene, profane or offensive material is being transmitted over any company communication system. This includes, but is not limited to, messages, jokes, chain letters; accessing erotic materials via news groups or forms that violate our harassment policy or create a hostile work environment are prohibited. Use of tribal communication systems to set up personal businesses is prohibited.

Employees are also responsible to stay compliant and up-to-date on any official tribal or departmental trainings or information regarding e-mails, including so as to prevent the opening or other interactions from users outside the Tribe with malicious intent.

Official tribal communications and other communication internal to the Tribe should be distributed among tribal personnel only; distribution outside of the Tribe of said materials is prohibited unless approved by immediate supervisor. Accessing copyrighted information in a way that violates the copyright laws is prohibited. Any attempts to break into, or any malicious or unauthorized use of employees' password/mailbox is prohibited.

Broadcasting unsolicited personal views on social, political, religious or other non-business-related matters is prohibited. Solicitation to buy or sell goods or services is prohibited unless approved by the Director/Supervisor and related to tribal business.

The Tribe's IT Department is responsible to ensure the efficient use of systems according to this policy. Where issues arise, IT will deal directly with the employee (and notify the appropriate Director/Supervisor where appropriate). When using e-mail, it is appropriate for management to evaluate the quality and context of the work to ensure consistency with professional standards. The Tribe reserves the right to randomly monitor any employee's e-mail for any reason.

E-mail messages containing confidential information should include, at minimum, the following statement, at the bottom of the message: "CONFIDENTIAL: UNAUTHORIZED USE OR DISCLOSURE IS STRICTLY PROHIBITED". Different wording for confidentiality statements may be used as long as the language meets the intent of these minimum standards.

## **2. Internet Provisions**

As a condition of providing internet access to its employees, contractors, and other authorization users, the Tribe places certain restrictions on workplace use of the Internet. The Tribe encourages employee use of the Internet for the following: to communicate with fellow employees and clients regarding matters within an employee's assigned duties; to acquire information related or designed to facilitate the performance of regular assigned duties, and to facilitate performance of any task or project in a manner approved by an employee's supervisor.

The use of the internet access, provided by the Tribe or via any tribal device, expressly prohibits the following:

- a) Dissemination or printing of copyrighted materials (including articles and software) in violation of copyright laws.
- b) Sending, receiving, printing, downloading, or otherwise disseminating proprietary data, trade secrets or other confidential information of the Tribe in violation of tribal policies or proprietary agreements. Employees are reminded to comply with tribal policies and confidentiality agreements regarding privacy.
- c) Offensive or harassing statements or language including disparagement of others based on their race, national origin, sex, sexual orientation, age, and disability, religious or political beliefs.
- d) Sending or soliciting pornography or sexually explicit messages or images.
- e) Operating a business, usurping business opportunities or soliciting money for personal gain.
- f) Sending chain letters, gambling or engaging in any other activity in violation of local, state, federal, or tribal law.
- g) Any other activity on the Internet that may violate any other law or may be deemed improper by the employee's Director/Supervisor.

The Tribe reserves the right to monitor internet use by its employees, contractors, and other authorized users.

## **Section N. Social Media and Electronic Communications**

### **1. General Provisions**

This section establishes the Tribe's position on the use and management of social media and provides rules and precautions on communications, verbal or written, by tribal departments, programs, officials, and employees.

Tribal employees are representatives of the Tribe and are entrusted with the public trust. Because of this public trust, employees are held to a high standard of professionalism and reliability. Employees must obtain and maintain the trust and confidence of tribal members as well as the greater community in which the Tribe participates as a governmental entity. Employees must give thoughtful consideration to their actions to avoid damaging the reputation of Tribe and the trust the Tribe has with tribal members and the greater community. Employees shall adhere to the following social media provisions:

- a) Adherence to the Employee Confidentiality Agreement and all tribal policies and procedures, including, but not limited to, those pertaining to confidentiality and nondisclosure, is required in the personal use of social media.
- b) Employees have qualified First Amendment rights under the Indian Civil Rights Act. As employees, speech on or off-duty made pursuant to official duties and the employee's scope of employment, is not protected speech under the First Amendment and may form the basis for discipline if deemed detrimental to the Tribe or the operations of the tribal government. (*Garcetti v. Ceballos*, 126 S.Ct 1951 (2006))
- c) Employees are free to express themselves as private citizens in matters of public concern to the degree that their speech does not:
  - i. Impair working relationships of the department for which loyalty and confidentiality are important;
  - ii. Violate the employee's Confidentiality Agreement or other policies and procedures of the Tribe;
  - iii. Impede the performance of duties;
  - iv. Impair discipline and harmony among co-workers; or
  - v. Negatively impact or tend to negatively impact the employee's department or the Tribe's ability to serve the public.
- d) Employees shall not post, transmit, or otherwise disseminate any information, documents, photos or videos, to which employees have access as a result of employment, without prior written permission from the Director/Supervisor.
- e) Employees are prohibited from disclosing information pertaining to any other employees, contractors, tribal members, or patients/clients, without prior written permission of the affected individual (to include "tagging" in text or photos).

## **2. On-the-Job Use of Electronic Communication**

### **a) Tribal Sanctioned Presence by Departments**

If approved, in accordance with this Employment Handbook, each social media page shall include an introductory statement that clearly specifies the purpose and scope of the Department's presence on the page/website. Social media page(s) will be designed for the target audiences such as tribal members, patients/clients of the Tribe's Health Center, the general public, community members, employees, and volunteers. The procedures for tribal departments/programs to follow for establishing a social media presence is:

- i. All department social media sites/pages shall be first proposed by the applicable Director, with a formal request for approval made by the Director to the Tribal Administrator for final review, approval and registry. No approval shall be granted except in cases where an express purpose and benefit to the Tribe is clearly articulated. All department-sponsored social media sites/pages shall be regularly monitored by the Director/Supervisor. The Director (or designee) responsible for monitoring shall be identified to the Tribe's Communications Office.
- ii. Social media pages will clearly indicate they are maintained by the department or program and display contact information prominently.
- iii. Content regarding programs, services, events or initiatives on social networking sites should point users to a working phone number or the Tribe's website for expanded content.
- iv. Social media content will be consistent with each department's strategic goals and shall adhere to applicable laws, regulations, and policies, including all information technology and records management policies.
- v. Social media pages shall not permit public or internal posting or entry of comments.

**b) Department-Sanctioned Use**

- i. Tribal employees representing the Tribe via approved tribal social media outlets will do the following:
  - Conduct themselves at all times as representatives of the Tribe and, accordingly, shall adhere to all tribal policies pertaining to confidentiality and employee conduct, and shall at all times observe proper decorum.
  - Identify themselves as an employee of the department.
  - Respond to misinformation, as may be appropriate.
  - Conduct no political activities or private business.
  - Keep information current and up to date.
- ii. Departments (including the responsible directors and designees) shall observe and abide by all copyright and trademark restrictions in posting materials to electronic media. Questions should be presented to the Director for possible legal review in accordance with tribal policies.
- iii. Social Media may be used for the following purposes, among others, all subject to approval in accordance with this Policy:
  - Further community outreach and engagement by providing accurate, timely information.
  - Providing time-sensitive notifications related to special events, emergencies, holidays/other closures, and other public notices.
  - Posting public meeting schedules, agendas, meeting minutes and related information.
  - Posting drafts of proposed laws and policies that may require public reading and/or comment.

### **3. Personal Use of Electronic Communication**

#### **a) Precautions**

- i. Employees should be mindful that once a photo has been posted to the internet, it can never be purged out of existence.
- ii. Employees should be aware that privacy settings and social media sites are constantly in flux, and should never assume that personal information posted on such sites is protected from public access.
- iii. Employees should expect that any information created, transmitted, downloaded, exchanged, or discussed in a public online forum may be accessed by the Tribe (your employer) at any time without prior notice or that others may share to the Tribe for others.
- iv. Employees should be aware that they may be subject to civil litigation for:
  - Publishing or posting false information that harms the reputation of another person, group or organization (defamation), including the Tribe, FBC members, and other employees and agents of the Tribe;
  - Publishing or posting private, non-public facts and personal information about someone without their permission;
  - Using someone else's name, likeness, or other personal attributes without that person's permission for an exploitative purpose; or
  - Publishing the creative work of another, violating trademarks, or exploiting certain confidential business information without the permission of the owner.

#### **b) Prohibitions**

- i. Employees shall not access personal social networking site(s) while on duty and shall not use any tribal equipment for such purpose, at any time.
- ii. Employees, while on duty, are prohibited from speech that ridicules, maligns, disparages, or otherwise promotes discrimination against race, ethnicity, religion, sex, national origin, sexual orientation, age, disability, political affiliation, gender identity or other protected class of individuals.
- iii. Employees, while on duty, are prohibited from speech or other expression that suggests another individual is engaged in behavior reasonably considered to be unlawful or reckless toward public safety.

Engaging in prohibited speech as stated in this Employment Handbook may negatively affect the Tribe's credibility and impair the subject employee and other employees' ability to perform their essential job functions. An employee's speech is a reflection of character and values. Speech that fundamentally conflicts with the Tribe's mission statement or core values affects both the employee's ability and the Tribe's ability to serve tribal members and the community.

**Section O. Reproduction or Distribution of Copyrighted Materials Prohibited**

Employees should not copy or distribute copyrighted material (e.g., software, database files, documentation, articles, or graphic files) through any other means unless he or she has confirmed in advance from the appropriate sources that the Tribe has the right to copy or distribute the material.

**Section P. Software Policy**

Before installing software or other programs on any tribal computer, mobile phone, or other device, an employee must receive prior authorization from their Director/Supervisor and IT.

**Section Q. Use of Stationery and Mail Services**

All engraved or printed tribal stationery, envelopes, and other work materials are for tribal business only and may not be used for personal correspondence or other non-business matters. Generally, official tribal letterhead is to be used for correspondence to outside entities. When signing letters on tribal letterhead, the employee's name and title or position must be used. Employees shall not send or receive personal mail using the Tribe's mail services.

**Section R. Operation of Vehicles****1. General Provisions**

Employees may use tribal vehicles only if authorized and covered by Tribe's insurance. Employees driving a vehicle on tribal business, whether in a tribal or non-Tribal vehicle, are not permitted to engage in unauthorized activity or travel. Employees using an official and/or personal vehicle for tribal business must also complete a Vehicle Use Agreement (see Appendix H) on file in the Human Resources Department.

Use of tribal vehicles is limited to work-related activities and may not be used for personal activities. Employees from the following departments may be authorized to keep tribal vehicles in their possession with approval of the Tribal Administrator: Law Enforcement, Public Works, and Seasonal irrigators/ditchriders. Except for Law Enforcement and Victim Services or other vehicles identified by the Tribal Administrator, all tribal vehicles shall be identified as tribal vehicles. For security reasons, all vehicles shall be stored in the maintenance yard or another area designated by the Tribe.

All employees authorized to drive tribal vehicles or to rent vehicles for use in conducting tribal business must:

- a) possess a current valid Nevada driver's license (or obtain within 30 days of their start date);
- b) maintain an acceptable driving record as determined by the Tribe's insurance company;
- c) obtain any specific state required permits or licenses necessary to operate tribal vehicles; and

- d) be 18 years of age or older except for employees who are law enforcement officer, are transporting passengers/hazardous materials, or operating heavy vehicle in which case must be 21 years of age or older.

Individuals who are offered employment with the Tribe and such employment will require the employee to drive tribal vehicles, the employee must submit a driving report, at the employee's cost, covering the prior three (3) years before the employee is able to officially accept employment with the Tribe. In addition to providing a copy of the driving record at the time of the annual performance evaluation (with this cost reimbursable to the employee), any change in a driver's license or permit status must be reported to management immediately.

## **2. Driver Guidelines and Qualifications**

Every employee must drive safely and obey all traffic, vehicle safety, and parking laws or regulations. Moving violations, parking tickets, and similar monetary obligations incurred while operating a vehicle during tribal business are the responsibility of the employee. The Tribe may pay for a parking ticket by deduction from the payroll of the employee who incurred the ticket.

No employee shall operate a tribal vehicle when that employee's ability to operate such a vehicle is impaired. No alcoholic beverages, marijuana, illegal drugs, controlled substances or prescription drugs, or over the counter medications that could impair someone's driving ability are to be used or consumed by the driver of tribally-owned, leased, or rented vehicles, including personal vehicles while being used on tribal business. In addition, no driver shall operate a tribally-owned vehicle when his/her ability to drive has been impaired by illness, fatigue, and/or injury.

An employee who is convicted of driving under the influence in any court of competent jurisdiction, or charged with driving under the influence by any law enforcement agency, must report such conviction or charge within three working days of conviction or charge to their supervisor. Any employee convicted of driving under the influence (or who pleads guilty, enters nolo contendere, or similar disposition) shall not operate a tribally-owned vehicle or personal vehicle for tribal business (and therefore is not eligible for mileage reimbursement) for three years following the date of conviction. Any employee charged with driving under the influence must provide proof that the employee's driver's license or permit is in good standing.

In the event that the license or permit status or driving record of any employee whose job responsibilities include driving is unacceptable to tribal management or the Tribe's insurance carrier, that employee may be restricted from driving, reassigned, suspended or terminated.

Employees with the following incidents/infractions on their motor vehicle records are not allowed to drive tribally-owned vehicles until such time-periods have elapsed:

- More than one alcohol or drug related offense in the past three years.
- A combination of alcohol or drug related offenses with more than one (1) additional violation.
- More than one at-fault accident in the past three years.



- Any major violation or three minor violations in the past three years.

Major violations are considered but not limited to:

- Refusing substance test.
- Reckless driving.
- Manslaughter.
- Hit and run.
- Eluding police officer.
- Any felony.
- Drag racing.
- Driving while license suspended.
- Multiple speeding violations of 15 MPH or more over the speed limit.

Minor violations are considered to be those not listed under major violations. It should be noted that many minor violations involve speeding or similar traffic violations may be reclassified by courts in order to make an individual's motor vehicle report appear better.

In the discretion of the Director/Supervisor, in consultation with the Tribal Administrator or Human Resources Director, accommodations may be made to eliminate driving responsibilities, provided such accommodations may be rescinded or changed at any time. Employees may not "clock out" and drive their personal vehicles when engaging in official tribal business in violation of the intent of this policy.

Employees may use their personal vehicle to commute to work and take lunch so long as those activities are not included as compensated work hours during which wages of any kind are paid. Notwithstanding the above, out of pocket reimbursements (e.g., mileage reimbursement) are allowed for authorized travel in accordance with the Tribe's Financial Management Policy.

### **3. Personal Vehicle Use For Tribal Business**

When an employee uses a personal vehicle for tribal business, the employee must have a valid driver's license, as well as personal auto insurance that is the primary insurer for liability. The Tribe's insurance acts as secondary insurer for excess liability up to the Tribe's policy limit of liability per incident. The Tribe does not provide any protection for physical damage losses to vehicles not owned by the Tribe. If an employee is involved in an accident with their own vehicle, the Tribe will not pay their deductible or any portion of the collision or comprehensive vehicle loss. Employees using a personal vehicle for tribal business must also have a completed Vehicle Use Agreement (see Appendix H).

### **4. Cell Phone and Other Electronic Device Usage**

The use of cell phones and/or other electronic devices to talk or for navigation while driving should be kept to a minimum. Drivers need to be aware when use of the cell phone is creating a distraction from safe driving and adjust usage accordingly, including pulling off the road to continue/finish the conversation if needed. Whenever possible, drivers should complete calls while the vehicle is parked and/or use the phones in a "hands free" mode via a headset or speaker.

While driving, attention to the road and safety should always take precedence over conducting business over the phone. Texting, or operating a phone requiring the use of hands, such as searching the internet or programming navigation, while driving a tribally-owned vehicle, or a personal vehicle while on tribal business, is not allowed at any time.

## **5. Reporting of Accidents**

All accidents, regardless of the degree of damage or fault of operator, involving tribally-owned vehicles, shall be reported immediately to the nearest law enforcement agency and shall be reported as soon as possible to the Tribal Administrator's office. A copy of the accident report and an insurance claim/incident report shall be transmitted by the driver of the vehicle to the Tribal Administrator's office, as well as to the Director/Supervisor.

## **6. Commercial Driver's License (CDL)/Transit Operators**

Those employees and workers who, as part of their job, maintain an active Commercial Driver's License (CDL) or perform transit services will also be expected to meet all requirements and regulations established by the Federal Transit Authority (FTA), Federal Highway Administration (FHWA), and U.S. Department of Transportation (DOT), as applicable to these positions.

## **Section S. Reporting Crime**

Employees should report any suspicious person or activities in the workplace to his or her supervisor or the nearest law enforcement agency.

In the event of criminal activity, and to the extent possible while maintaining safety, employees should attempt to identify the perpetrator's physical features, dress, voice, automobile or other identifying features for purposes of sharing that information with law enforcement. Once the incident is over, employees should contact law enforcement and should not attempt to follow or apprehend the perpetrator.

## **Section T. Health and Safety**

The health and safety of employees and others on tribal property are of paramount importance to the Tribe. The Tribe intends to comply with all applicable health and safety laws.

Employees must ensure that work areas are kept safe and free of hazardous conditions. Employees must report any unsafe conditions or potential hazards to a supervisor immediately.

Any workplace injury, accident, or illness must be reported to the employee's supervisor the same day the injury occurs regardless of the severity of the injury or accident and may be subject to drug testing in accordance with this policy. If medical attention is required, supervisors will assist employees in obtaining medical care. An Incident Report Form (see Appendix I) shall be prepared on the details of the injury or accident as soon as possible.

## **Section U. Punctuality and Attendance**

It is the policy of the Tribe that adherence to attendance and punctuality rules are a condition of employment. These standards are to maintain an efficient and productive organization while at the same time recognizing the employee's need for the occasional day(s) away from work due to various situations be that Approved or Unapproved Absences.

### **1. Attendance Guidelines**

It is required that employees report to work as scheduled. The Tribe recognizes that employees may require absences from work. Paid leave is to be used as provided in this policy. Abuse of this privilege is subject to disciplinary action, up to and including termination.

Written notification of absence is required and must be reported to the supervisor or, if unavailable, the Director. It is required that the employee reports every day of their absence to their supervisor, unless the employee has made advance arrangements with their supervisor's approval. Failure to comply with the following notification requirements will result in loss of pay for unscheduled absences with the possibility of further disciplinary action.

Employees are required to notify their supervisor of their absence from work at least two hours before the start of their shift or as appropriate for their department. If the office or department is not open two hours prior to the employee's shift start time, the employee is required to contact their supervisor within 30 minutes before or 15 minutes after the scheduled start of their shift by phone.

An employee may notify their supervisor via text if the supervisor has a tribally-provided device or if the supervisor has allowed an employee to reach them on their own personal device.

### **2. Thresholds for Disciplinary Action - Attendance.**

#### **a) Unapproved Absence**

One or more Occurrences. Absences on days previously requested by the employee as a scheduled absence and denied by their supervisor are subject to consideration as an unapproved absence.

An employee who is absent from work without approval shall receive no pay for the duration of the absence and may be subject to disciplinary action. The employee's immediate supervisor and the Director, on a case-by-case basis, will review any employee-provided extenuating circumstances to determine if the employee should be or not be paid for an Unapproved Absence.

#### **b) No-Call/No-Show**

An absence is considered a No-Call/No-Show if it is more than two hours past the scheduled start of an employee's shift and the employee has not contacted the employer or arrived for his or her scheduled shift.

If an employee does not provide sufficient information to validate a reason or does not have a valid reason for the No-Call/No-Show, a suspension without pay may be issued to the employee. The length of the unpaid suspension for a non-exempt employee will be three (3) days and the unpaid suspension for an exempt employee will be five (5) days. A second No-call/ No-show within twelve (12) months of the first offense will result in immediate termination.

The employee's immediate supervisor and the Director, on a case-by-case basis, will review any employee provided extenuating circumstances to determine if the employee should be accountable under "No-Call/No-Show" in either instance.

**c) Job Abandonment**

An employee, who is absent for three working days without appropriate notification, will be considered to have abandoned their job. Job abandonment is considered a voluntary resignation. The employee's immediate supervisor and Director, on a case-by-case basis, will review any employee-provided extenuating circumstances to determine if the employee should be accountable under "Job Abandonment".

**3. Punctuality Guidelines**

The Tribe establishes the following standards to ensure that its business and community services are prompt and efficient.

**a) Starting Time.**

Employees are required to arrive at their work location to attend to personal affairs, putting away coats and lunches, obtaining coffee, etc. before their scheduled start time. Employees are expected to be at their workstations at their designated scheduled in time to promptly begin work.

**b) Rest Period and Meal Breaks**

It is required that employees return to work and their duties on time when their Rest Period or Meal Break is over.

**c) Required Notice**

Notification of tardiness is required and it must be made to the immediate supervisor or their designee. The employee is required to notify their immediate supervisor or their designee as soon as possible that they will be tardy with an estimated time of arrival and of the reason(s) for their late return.

**4. Thresholds for Disciplinary Action - Punctuality.**

All employees are expected to be ready for work at their work stations at the start of their scheduled shift. However, there are circumstances that may occasionally arise that may cause an employee to be late and, therefore, it is the Tribe's intention to not be punitive but rather to provide some flexibility within reason. If an employee is late to the workstation, he/she may receive a tardy occurrence.

An employee with three (3) tardy occurrences within a 12-month rolling calendar period will receive formal corrective action, beginning with a documented oral warning and ultimately progressing to termination if warranted. Prior to issuing any formal corrective action, the supervisor will informally counsel the employee in order to communicate, identify and attempt to resolve issues.

The following table provides guidelines for disciplinary action resulting from occurrences of tardiness but may be adjusted depending on the situation:

<b><u>Number of Occurrences of Tardiness</u></b>	<b><u>Corrective Action</u></b>
• 3 (based on a 12-month rolling calendar)	Counseling/Warning
• 4 (based on a 12-month rolling calendar)	Written Reprimand
• 5 (based on a 12-month rolling calendar)	Final Reprimand
• 6 (based on a 12-month rolling calendar)	Termination

If an employee is consistently late for his/her scheduled start time, it will be reflected in the employee's performance evaluation and may impact any salary increases. Consideration will be given to the nature of the incident, the frequency of tardies and employee's overall work record. Management will make every reasonable effort to work with employees for their preferred work schedule; however departmental and tribal needs have priority.

## **Section V. Employee Standards of Conduct**

It is the policy of the Tribe that all employees are responsible for adhering to professional standards of conduct at all times during their employment with the Tribe. All employees shall refrain from engaging in any conduct, which could reflect unfavorably upon the Tribe and its members. Employees who have personal contact with employees, tribal/community members, patients, clients, customers, and others who come to the Tribe must conduct themselves with respect, understanding, courtesy, and good manners.

Employees are expected to maintain professional standards and ethical behavior even outside of the workplace, as employees, by the nature of their employment for the Tribe, serve as unofficial representatives of the Tribe. As such, the actions, behaviors, and attitudes displayed in personal settings reflect not only on the individual but also on the integrity and reputation of the Tribe.

Contact between tribal/community members, patients, clients, customers, and others who come to Tribe is a privileged and potentially confidential relationship. It is each employee's responsibility to abide by the confidentiality standards of their department regarding any information concerning a tribal/community member, patient, client, customer, or any other person who may come to the Tribe. All employees who use the telephone in their assignments must do so in a proper and professional manner (i.e., introductions, tone of voice, etc.). Courteous behavior is expected at all times.

Respect for the property of the Tribe, other employees, vendors, guests, and tribal/community members is of paramount importance. Direct, honest, complete, and open communication in a professional manner and in an appropriate setting is appreciated and expected. Within this context, there is no room for gossip or rumors. Individuals with differences are accountable for resolving them consistent with this and other applicable policies, procedures, or directives.

Potential solutions and/or ideas are expected to accompany criticism and problem identification. The possibility of making an honest mistake or receiving constructive criticism should not be obstacles to taking action. Unprofessional or abusive conduct, the damaging, stealing or intentionally mishandling of other's property is subject to disciplinary action, up to and including termination.

### **Section W. Employee Complaint Process**

It is the policy of the Tribe to provide an effective procedure for solution of problems arising from the employment relationship or environment and to make every effort to resolve any grievance or complaint at the lowest possible step in the grievance/complaint procedure. It is the hope of the Tribe that these issues and disputes may be resolved between individuals without management having to step in. However, the following complaint process is established for the ease and benefit of all employees should formal action be needed.

Should an employee have a complaint against another employee/co-worker with another department, the complaint should be made to the employee's supervisor. If both employees work in the same department, the Director/Supervisor should investigate the complaint and attempt to handle the complaint internally. If an adequate resolution cannot be made at this level, the complaint should be forwarded to the Human Resources Department to attempt to mediate the issue. If the employees work in different departments, the Directors of the departments may attempt to handle the issue, or forward to the Human Resources Department for mediation.

Should an employee have a complaint against their supervisor, the complaint should be filed with the Human Resources Department. The Human Resources Director should conduct a review of the complaint, gather any appropriate information, and to forward the complaint to the supervisor of the individual who the complaint is against for any appropriate action. Should the complaint be determined to be a misunderstanding, and with the consent of the employee who filed the complaint, the Human Resources Department may schedule a meeting with the employee and supervisor to clear up the misunderstanding.

Employees filing such complaints should expect that the complaint will be kept confidential, and not be subject to retaliation, unless it is determined that the complaint was filed with malicious intent, which would be subject to disciplinary action.

For any complaint that has been officially filed under this process, a copy of the complaint and any resolution should be sent to Human Resources for documentation.

## **PART IV - PAYROLL**

### **Section A. Working Hours and Schedules**

The Tribe is normally open for business from 8:00 a.m. to 5:00 p.m. local time, Monday through Friday. However, some departments and positions will have different work schedules based on operational needs. Employees are expected to work their assigned work schedule. Departments shall ensure that there is staff available to serve the public during all regular tribal business hours.

### **Section B. Timekeeping Procedures**

All employees must use the applicable tribal timekeeping system. Employees shall record the time that work begins and ends and any departure from work for any non-work-related reason (e.g., lunch). In the event that the regularly assigned time clock is not available (e.g., early start or late finish of work), entries may be done via manual punch in the Tribe's timekeeping system. The Finance Department may also require additional procedures, including completion of standardized forms, when a time clock is not available. In the event an employee fails to clock in or out, he or she must notify the appropriate supervisor.

Malfunctions or other issues with the timekeeping system shall be reported to management immediately.

Each employee must complete and submit their time sheet at the end of each pay period. Any errors in an employee's time card should be reported immediately to the supervisor for correction of legitimate errors.

Altering, falsifying, and/or tampering with time records, or recording time on another employee's time card or record (clocking another employee in or out), is prohibited.

Payroll is based on time sheets completed by employees and approved by supervisors. Each time sheet reflects the hours worked on time cards provided to employees. Time sheets will reflect the use of annual, personal time off, or other leave time, if applicable and/or required in the timekeeping system. Overtime for non-exempt employees requires the prior approval of the employee's supervisor.

In the case of any employee who, as a result of the temporary unavailability of their immediate supervisor (e.g., leave status, off-site training, etc.), has either an Extended Family Member relationship or intimate relationship with their second-level supervisor, an alternate signer shall be designated by the Director or Tribal Administrator to review and approve timesheets.

### **Section C. Overtime and Minimum Wage Compensation**

#### **1. Policy**

The Tribe follows the outlines of the Fair Labor Standards Act ("FLSA"). "Exempt employee," "non-exempt employee," "workweek," and other terms used in this Handbook shall have the same meaning as these terms are defined under the FLSA.

## 2. Hours Worked

- a) **Generally.** Non-exempt employees who work more than the maximum allowable hours in a workweek or work period must receive overtime pay for their excess hours worked. Paid or unpaid time off during which the employee is absent from the service of the Tribe shall not be counted as "hours worked" in determining if the maximum allowable number of hours has been exceeded. Such absences include but are not limited to holiday, personal leave, leaves of absence, meal breaks, administrative leave, and inclement weather closures.
- b) **Breaks.** Employees are entitled to two 15-minute breaks per eight-hour work period. Any break that does not exceed 15 minutes counts as hours worked. Breaks exceeding 15 minutes do not count as hours worked.
- c) **Meal Breaks.** Employees who work eight hour or more shifts may take a meal break of up to 60 minutes, but are not required to take meal breaks. Meal breaks of 30 minutes or more do not count as hours worked. The Director/Supervisor may require a meal break.
- d) **Travel Time.** When non-exempt employees are required to attend meetings or training that occur outside of tribal facilities, the hours involved in the actual travel, as well as the hours involved in the training/meeting, shall be considered hours worked.
- e) **Nursing Children.** The Tribe will provide reasonable break time for an employee to express breast milk for her nursing child for one year after the child's birth each time such employee has a need to express breast milk. To the extent possible, the Tribe will provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, for an employee to express breast milk. If the time used to express breast milk for her child exceeds 15 minutes, it will not count as hours worked.

## 3. Eligibility to Earn Overtime Compensation

- a) **Non-exempt Employees.** Unless excluded by the FLSA, all non-exempt employees who work in excess of 40 hours within one designated workweek or, if applicable, the maximum allowable hours within one 14-day work period, are eligible for overtime compensation.
- b) **Exempt Employees.** Exempt employees are not eligible to earn overtime compensation.
- c) **Status Determination.** The FLSA establishes criteria for determining whether a position is exempt or non-exempt from the law's provisions. The Human Resources and Finance Departments are responsible for determining the appropriate exemption status for all job classifications and submitting to the FBC for approval in accordance with Part II, Section I and Part IV, Section D of this Handbook. All determinations will be based on the current FLSA criteria and all positions will be reviewed and/or adjusted based on subsequent changes to the law.



#### 4. Calculation of Overtime Compensation

All eligible, non-exempt employees are to be compensated for hours worked in excess of their maximum allowable hours. Calculation of overtime compensation shall be as follows:

- a) **Sworn Law-Enforcement Employees.** Sworn law-enforcement employees who work in excess of 80 hours within a 14-day work period are to be paid 1.5 times the employee's regular hourly rate of pay..
- b) **All Other Employees.** All other eligible, non-exempt employees who work in excess of 40 hours within a workweek are to be paid 1.5 times the employee's regular hourly rate of pay for every hour in excess of 40 hours.
- c) **Two or More Hourly Rates.** Employees holding more than one position may have two or more regular hourly rates. Supervisors should consult with Human Resources for guidance regarding the payment of overtime compensation to such employees.

#### 5. Employer Responsibilities

- a) **Managing the Accrual of Overtime.** Supervisors may require that employees work additional time or overtime to meet the needs of the department/program, and are responsible for managing employees' hours worked whenever possible within the designated workweek or work period to avoid overtime. If an employee works more than the designated work hours in one day, thus creating the potential to exceed the maximum allowable hours within the workweek or work period as defined, the employee's supervisor may require the employee to take leave in the amount of the excess time worked within the same workweek or work period to avoid the accrual of overtime.
- b) **Fund Availability.** Supervisors shall ensure that adequate funds are available to pay required overtime compensation.
- c) **Recordkeeping.** Supervisors shall ensure that all non-exempt employees complete and submit, on a timely basis, accurate data recording their hours worked and leave taken as set forth in Part IV, Section B.

#### 6. Employee Responsibilities

- a) **Authorization for Overtime.** Employees must have prior authorization from their supervisor to work overtime. Failure to do so may result in disciplinary action in accordance with tribal policy.
- b) **Time Recording.** All non-exempt employees must complete and submit, on a timely basis, accurate data recording their hours worked and leave taken as set forth in Part IV, Section B. Employees will report additional hours worked to their supervisors within two working days. Failure to do so may result in disciplinary action in accordance with tribal policy.

## **7. Flex Time**

A supervisor may allow an employee who accrued extra work time during a week to flex out (off-set) this time at the straight-time rate of pay within the same workweek.

## **Section D. Exempt Employee Compensation**

### **1. Policy**

The Tribe follows the outlines of the Fair Labor Standards Act ("FLSA"). "Exempt employee" as used in this Handbook has the same meaning as "exempt employee" under the FLSA. Exempt employees shall not abuse these rules. Exempt employees must complete assigned work in a timely and satisfactory manner.

### **2. Determining whether an Employee is Exempt**

The Tribe's Human Resources and Finance Departments are responsible for determining the appropriate exemption status for all job classifications and submitting to the FBC for approval. All determinations will be based on the current FLSA criteria and all positions will be reviewed and/or adjusted based on subsequent changes to the law. In general, the FLSA provides exemption categories in which employees may be classified as being exempt status. These categories are:

- Executive Exemptions
- Administrative Exemptions
- Professional Exemptions (learned professional)
- Professional Exemptions (creative professional)
- Computer Employee Exemptions
- Highly Compensated Employee Exemptions
- Outside Sales Exemption

However, the determination of an employee's status under the FLSA is not determined by job title; in order to qualify as an exempt employee, the employee's specific job duties and salary must meet the FLSA's exemption requirements as determined by the Tribe.

### **3. Compensation**

In accordance with U.S. Code of Federal Regulations, Title 29, Part 541, the provisions for compensation of exempt employees will be as follows:

#### **a) General Rule**

Exempt employees will be paid on a "salary basis" which means the employee regularly receives a pre-determined amount of compensation each pay period which amount is not subject to reduction because of variations in the quality or quantity of the work performed.

- Subject to the exceptions provided below in b), an exempt employee must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked. Exempt employees need not be paid for any workweek in which they perform no work.

- An employee is not paid on a salary basis (exempt status) if deductions from the employee's predetermined compensation are made for absences occasioned by the employer or by the operating requirements of the business. If the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

**b) Exceptions**

The prohibition against deductions from pay in the salary basis requirement is subject to the following exceptions:

- Deductions from pay may be made when an exempt employee is absent from work for one or more full days for personal reasons, other than sickness or disability. Thus, if an employee is absent for two full days to handle personal affairs, the employee's salaried status will not be affected if deductions are made from the salary for two full-day absences. However, if an exempt employee is absent for one and a half days for personal reasons, the employer can deduct only for the one full-day absence.
- Deductions from pay may be made for absences of one or more full days occasioned by sickness or disability (including work-related accidents) if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for loss of salary occasioned by such sickness or disability. The employer is not required to pay any portion of the employee's salary for full-day absences for which the employee receives compensation under the plan, policy or practice. Deductions for such full-day absences also may be made before the employee has qualified under the plan, policy or practice, and after the employee has exhausted the leave allowance thereunder. Thus, for example, if an employer maintains a short-term disability insurance plan providing salary replacement for 12 weeks starting on the fourth day of absence, the employer may make deductions from pay for the three days of absence before the employee qualifies for benefits under the plan; for the twelve weeks in which the employee receives salary replacement benefits under the plan; and for absences after the employee has exhausted the 12 weeks of salary replacement benefits. Similarly, an employer may make deductions from pay for absences of one or more full days if salary replacement benefits are provided under a State disability insurance law or under a State workers' compensation law.
- While an employer cannot make deductions from pay for absences of an exempt employee occasioned by jury duty, attendance as a witness or temporary military leave, the employer can offset any amounts received by an employee as jury fees, witness fees or military pay for a particular week against the salary due for that particular week without loss of the exemption.
- Deductions from pay of exempt employees may be made for penalties imposed in good faith for infractions of safety rules of major significance. Safety rules of major significance include those relating to the prevention of serious danger in the workplace or to other employees, such as rules prohibiting smoking in explosive plants, oil refineries and coal mines.

- Deductions from pay of exempt employees may be made for unpaid disciplinary suspensions of one or more full days imposed in good faith for infractions of workplace conduct rules. Such suspensions must be imposed pursuant to a written policy applicable to all employees. Thus, for example, an employer may suspend an exempt employee without pay for three days for violating a generally applicable written policy prohibiting sexual harassment. Similarly, an employer may suspend an exempt employee without pay for twelve days for violating a generally applicable written policy prohibiting workplace violence.
- An employer is not required to pay the full salary in the initial or terminal week of employment. Rather, an employer may pay a proportionate part of an employee's full salary for the time actually worked in the first and last week of employment. In such weeks, the payment of an hourly or daily equivalent of the employee's full salary for the time actually worked will meet the requirement. However, employees are not paid on a salary basis within the meaning of these regulations if they are employed occasionally for a few days, and the employer pays them a proportionate part of the weekly salary when so employed.
- An employer is not required to pay the full salary for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act (FMLA). Rather, when an exempt employee takes unpaid leave under the FMLA, an employer may pay a proportionate part of the full salary for time actually worked. For example, if an employee who normally works 40 hours per week uses four hours of unpaid leave under the FMLA, the employer could deduct 10 percent of the employee's normal salary that week.

**c) Calculating Deductions**

When calculating the amount of a deduction from pay allowed under paragraph b), above, the employer may use the hourly or daily equivalent of the employee's full weekly salary or any other amount proportional to the time actually missed by the employee. A deduction from pay as a penalty for violations of major safety rules, detailed above, may be made in any amount.

## **Section E. Payment of Wages**

Paydays are on THURSDAY of every other week for work performed during the previous two-week pay period. Construction employees who are subject to the Davis Bacon Act will be paid weekly. If a regular payday falls on a holiday, employees will be paid on the following workday. Time sheets and time cards must be completed and submitted to the Finance Department by Monday at 4:00 p.m. local time. If Monday is a holiday, it must be submitted by Tuesday at noon. The Finance Department may change the deadline for submitting time sheets and time cards.

Paychecks are distributed by management and are normally available by 4:00 p.m. local time on a given payday. If there is an error in an employee's paycheck, it must be reported immediately to the supervisor. No one, other than the employee to whom the paycheck is written, will be allowed to receive a paycheck, without written authorization.

## **Section F. Standby, On-Call, and Emergency Call-Back Incentive Compensation**

### **1. Policy**

The Tribe values its employees and recognizes the difficulties imposed on employees who work on-call shifts, respond to emergency call-backs, or work overnight hours. Thus, it is the policy of the Tribe to provide incentive pay to compensate employees for standby, on-call, emergency call-back, and shift-differential time. Reasonableness and fairness shall be exercised in administering this policy. Directors/Supervisors are responsible for designating the individuals who are eligible to be placed on-call (and maintaining a current list) and must notify Human Resources and the Tribal Administrator of the names of those employees.

This incentive program recognizes that certain employees of the Tribe must be in on-call or call-back status or scheduled to work overnight hours because the position requires such duty and that an employee should not be penalized for such service. Because this is an incentive program, all employees regardless of their exempt or non-exempt status are eligible to receive the incentive pay.

There may be situations where a non-exempt employee's standby on-call time may be considered working time, requiring compensation at the employee's regular or overtime rate. These situations will be determined on a case-by-case basis by the Tribal Administrator, Human Resources, and the employee's Director/Supervisor.

### **2. On-Call Compensation**

- a) **Standby Time during On-Call Shift.** All employees designated for on-call status will be paid a specified rate for each hour of standby time during an on-call shift when that standby time occurs during a weekend and/or holiday period. This applies to both exempt and non-exempt employees. Employees shall note on their Employee Timesheet that they were on standby during a weekend or holiday, and shall be compensated as outlined in this Section. There is a maximum of 60 hours of standby time in each weekend, and 24 hours of standby time in each day of a holiday. Standby time is not counted as part of the employee's hours worked and will not be used to determine eligibility for overtime.
- b) **Standby Time Rates.** The rate of standby pay is \$2.00 per hour.
- c) **Working Time during On-Call Shift.** Employees who report to work in response to a call during an on-call shift will be paid the employee's regular wage rate, or overtime rate if applicable, for all actual time spent responding to a call (with a minimum time of one hour). Time will start once the employee receives a call to report to work (with a minimum of time of one hour if called out). Exempt employees who report to work in response to a call during an on-call shift will be paid the employee's regular wage rate which will be in addition to regular exempt pay for that week. Employees shall note on their timesheet the times that they were responding to a call during an on-call shift as part of their regularly-reported working time, and such time is not eligible for additional incentive pay as standby time. Working time accrued in response to a call during an on-call shift is counted as part of the hours worked and will be used to determine eligibility for overtime.

### **3. Emergency Call-Back Compensation**

An eligible employee who has left work and is subsequently required to return to work, either before or after their shift or on weekends/holidays, as the result of an emergency for other than his or her regular shift shall be compensated at a rate of 1.5 times his or her normal hourly rate for actual hours worked. Time will start once the employee receives a call to report to work (with a minimum of time of one hour if called out). This applies to both exempt and non-exempt employees. Employees shall note on their Employee Timesheet the times that they were in emergency call-back Status and shall be compensated as outlined in this Section. This does not apply to employees who have agreed to cover the regular shift of another employee.

Emergency Call-Back Compensation is different from time worked while on an on-call status (refer to 2.c above).

### **4. Shift Differential Compensation**

This is considered additional compensation of an employee's basic salary for those employees who work between the hours of 8:00 p.m. and 5:00 a.m. (Pacific Time). This shift differential rate shall be set at a rate of \$2.00/hour for law enforcement officer positions and \$1.00/hour for all other positions.

## **Section G. Longevity Pay**

### **1. Eligibility**

- a) Full or part-time regular employees who are not on leave without pay on the first workday of the month, have at least 5 years (60 months) of continuous employment with the Tribe, and have reached the maximum step of their pay grade are eligible for longevity pay.
- b) Employment will be considered continuous so long as there is no break in service exceeding 90 days.
- c) Military leave (including but not limited to active duty, service with the National Guard or a military reserve program) and medical leave do not count as a break in service so long as approved consistent with tribal policies.
- d) Time employed with a separate tribal business entity does not count toward continuous employment.

### **2. Calculation**

- a) Longevity pay will be calculated following completion of 5 years (60 months) of continuous service.
- b) Longevity pay will be paid to eligible employees quarterly, based on a schedule established by the Tribe.

- c) Longevity pay is computed by multiplying the employee's quarterly base or contract salary rate by a percentage, rounded to the nearest dollar, in accordance with the following table:

<u>Years of Continuous Tribal Service</u>	<u>Longevity Pay Rate</u>
• 5 but less than 10 years	2.00%
• 10 but less than 15 years	3.00%
• 15 but less than 20 years	4.00%
• 20 but less than 25 years	5.00%
• 25 or more years	6.00%

- d) Salary increases effective on the same date as the longevity eligibility date shall be incorporated in the base pay used to compute longevity.

### **3. Payment**

- a) Payment will be made in a lump sum on a quarterly basis after the employee becomes eligible for longevity pay.
- b) Employees eligible to receive longevity pay on the effective date of this longevity pay policy shall receive payment on a quarterly basis after this policy becomes effective.
- c) Longevity pay will be paid on a pro-rata basis for employees who have worked less than full-time during the quarter qualifying for longevity pay.
- d) Longevity pay is subject to all applicable deductions.
- e) Longevity pay is not considered a part of annual base or contract pay or salary.

## PART V - BENEFITS

### **Section A. Holidays**

The Tribe observes the following paid holidays:

- New Year's Day
- Martin Luther King Day
- President's Day
- Memorial Day
- Easter (Monday after)
- Juneteenth
- Independence Day
- Labor Day
- National Indian Day
- Nevada Day
- Veterans' Day
- Thanksgiving
- Nevada Family Day
- Christmas

If a holiday falls on a weekend day, it is usually observed on the preceding Friday or the following Monday. Holiday observance will be announced in advance.

Full-time employees will receive holiday pay. The rate of pay is the pay the employee would have received if the employee had worked that day. Part-time employees (as defined in Part II, Section I.4.c) will receive a pro rata share of holiday pay based on hours normally worked. Temporary/seasonal and emergency appointment employees are not eligible for holiday pay. Employees on extended unpaid leave (i.e., leave without pay, short-term disability, worker's compensation, or FMLA) are not eligible for holiday pay. Extended unpaid leave shall mean a time period of more than 30 days.

If an employee eligible for holiday pay is required to work on a holiday, he or she will receive pay for the hours worked that day plus holiday pay. Holiday pay is not counted when calculating hours worked for overtime purposes.

The FBC Chairman or FBC may designate additional paid holidays.

### **Section B. Vacation**

Regular full-time employees accrue paid vacation as follows:

- Years 1-3: 80 hours per year
- Year 4 and beyond: 120 hours per year

Regular part-time and seasonal/temporary employees (as defined in Part II, Section I.4.c) shall accrue paid vacation time on a pro-rated basis in proportion to the hours they work in a 40-hour work week. Other employees/individuals (volunteers; interns, students, and residents; emergency appointments) do not accrue paid vacation time.

Any unused vacation leave shall carry forward to the following year up to a maximum of 160 hours of vacation leave. Any vacation hours accrued in excess of 160 not used by the end of the calendar year shall be lost.



An employee will not accrue vacation leave for any period of an unpaid leave of absence or inactive service.

Accrued, unused vacation will be paid at separation whether separation is voluntary or involuntary. Unused vacation will not be paid if separation from employment is due to a positive alcohol or drug test. Unused vacation will not be paid if an employee voluntarily separates from employment without providing two weeks' notice unless the Director/Supervisor determines that special circumstances justify the failure to give such notice.

Up to 50% of vacation hours in excess of 10 hours may be paid out once per year if a request is submitted, in writing with justification for the request, to the Tribal Administrator and Finance Department, provided sufficient funding is available.

In the event an employee transfers from one tribal department to another, the vacation leave balance at the time of transfer shall be paid out in full by the department from which the employee transferred.

Employees are encouraged to take their accrued vacation each year. Employees must request vacation as far in advance as possible. Vacations will be scheduled so as to provide adequate coverage of job and staff requirements. In the case of a conflict, the Tribal Administrator shall make the final determination whether requested vacation time should be granted.

Vacation leave accrues, but may not be taken, during the employee's probationary period (excluding employees who transferred to a new position within the Tribe or law enforcement positions who are eligible to use vacation time after six (6) months).

### **Section C. Personal Time Off**

Regular full-time employees accrue personal time off (PTO) at the rate of 120 hours per year. Regular part-time and seasonal/temporary employees shall accrue PTO on a pro-rated basis in proportion to the hours they work in a 40-hour work week. Other employees/individuals (volunteers; interns, students, and residents; emergency appointments) are not eligible for PTO.

Employees will not accrue PTO during unpaid leave of absence or other periods of inactive service.

PTO may be taken for any reason, including without limitation employee illness or family illness. Employees must request PTO as far in advance as possible.

Accrued PTO will not be paid at separation of employment.

No more than 16 hours of PTO may be used in the last two weeks of employment, unless agreed to by the supervisor and Director.

PTO accrues, but may not be taken during the probationary period (excluding employees who transferred to a new position within the Tribe or law enforcement positions who are eligible to use PTO time after six (6) months). At the end of each calendar year, accrued, unused PTO will carry over into the subsequent year. The maximum amount of PTO is 240 hours.

In the event of an unexpected absence, employees are required to personally call the supervisor or the supervisor's designee no later than the start of the scheduled shift. If the supervisor and designee are unavailable, employees must leave a phone number where they can be reached.

The return-to-work requirements of Part III, Section U may be applied to PTO absences.

In the event an employee transfers to a new position within the Tribe, the employee will retain their accrued PTO.

## **Section D. Administrative Leave**

### **1. General Administrative Leave**

The FBC or FBC Chairman may designate all or part of a workday as paid General Administrative Leave by written notice.

General Administrative Leave, which is paid, applies to all employees regardless of employee categories or probationary status.

To be eligible for General Administrative Leave, an employee must be scheduled for the day of work on which such leave is provided.

If General Administrative Leave is for full day, full-time employees will receive a full day of pay and part-time employees shall receive a pro rate share of pay based on number of hours normally worked.

Employees with schedules outside of the regular work hours of 8:00 a.m. to 5:00 p.m. may not be eligible for General Administrative Leave. For example, employees who start work before 8:00 a.m. or who serve a department with 24-hour operations, may not receive the benefit of all or part of General Administrative Leave. In the discretion of the Director/Supervisor, schedules may be modified within the same workweek in which a full day of General Administrative Leave was granted to allow such employees to take all or part of the administrative leave granted for that workweek.

To be eligible for General Administrative Leave when such leave is less than a full day, an employee must be scheduled for and actually work the work hours preceding the administrative leave period. An employee may use vacation or personal time off for up to 25% of the time needed to fulfill this eligibility requirement.

### **2. Limited Administrative Leave**

Emergency situations (e.g., power failures, fires, severe/inclement weather, etc.) or other unforeseen situations that interferes with tribal operations may result in a temporary shutdown of part or all of tribal operations. Reliable, generally-accepted information may be considered, such as from the National Weather Service, utilities, law enforcement, or news outlets. The FBC or Chairman shall determine whether to order a temporary shutdown and whether employees will be paid for the shutdown period. No other tribal management may order a shutdown.

The FBC or FBC Chairman, or designee, may designate all or part of workday as Limited Administrative Leave, which is paid, to address these emergency situations that apply to all employees or limited employees or departments. This administrative leave will be limited in scope to address the situation and a memo or other notification will be issued authorizing the use of Limited Administrative Leave. Examples of this would be a delayed start or early release for weather related issues or shutting a building down for a health or safety issue. The provisions in Section D.1, above, regarding working hours and being scheduled to work apply.

### **3. Individual Administrative Leave**

Under certain circumstances, an employee may be granted Individual Administrative Leave, which is paid. Individual Administrative Leave in these circumstances will be authorized to the individual via a Personnel Action Form (PAF). The circumstances include internal investigations for violations of some workplace rules, for the safety of the employee or other employees, for the safety of property or individuals within the care of the employee, or for other reasons, at the discretion of the FBC Chairman or Tribal Administrator, for a period not to exceed 30 days. Extensions of this administrative leave may be granted upon approval by the FBC Chairman or Tribal Administrator for up to an additional 30 days, but not to exceed 60 days in total. Vacation and PTO leave do not accrue an employee is on Individual Administrative Leave.

### **4. Unpaid Administrative Leave (Alleged Serious Misconduct)**

The FBC Chairman or Administrator may place an employee on Unpaid Administrative Leave under certain circumstances. This is not disciplinary leave as covered in Part IX, Section A, therefore accrued PTO may be used if the employee has passed probation. Donated leave may not be used in this circumstance.

#### **a) Investigations (Internal and External)**

At other times, Unpaid Administrative Leave may be warranted in response to alleged serious misconduct within or outside of the workplace. Unpaid Administrative Leave is not disciplinary action, not subject to the grievance procedure, and is not an indication that an allegation is credible.

Unpaid Administrative Leave will only be administered if the FBC Chairman or Tribal Administrator determines that it is in the best interest of the Tribe, other tribal employees, or legitimate tribal interests of the Tribe or tribal programs that the individual be removed from the workplace. The employee may submit a request in writing to the FBC for reconsideration of Unpaid Administrative Leave within five days of being placed on Unpaid Administrative Leave. The FBC will respond to the request within 10 working days. Examples of situations of whether Unpaid Administrative Leave is appropriate are below. This list does not cover all situations when unpaid leave to investigate may be warranted.

1. Alleged serious misconduct in the workplace and the Tribe has reason to believe the alleged victim may be intimidated by the presence of the employee.

2. Alleged serious misconduct in the workplace, including but is not limited to sexual harassment or other harassment, assault, or theft.
3. When an employee is arrested for or charged with a crime such as assault, battery, domestic violence, theft, financial related crime, or any crime considered a felony under state, federal or tribal law.
4. When an employee is charged with a crime where a conviction would prevent the employee from carrying out their duties. This could include without limitation employees whose position requires the passing of an extensive background check in accordance with tribal or federal requirements, or employees who are charged with a DUI and driving is essential to their position.
5. Where an employee has exhausted the maximum amount of leave with pay, or been denied additional leave with pay, and an investigation is not yet been resolved.

For the purposes of this Section D.4, the employee may be immediately placed on a 30-day Unpaid Administrative Leave. This administrative leave may be extended in 30-day increments, not to exceed 90 days of administrative leave.

**b) Termination Due to Necessity**

In some circumstances, it may not be feasible to hold an employee's position open for an extended period. If it is determined that a position can no longer be held open by the Director, and if that determination is approved by the Tribal Administrator, the employee may be terminated, without cause, at any time after 30-days. The employee retains the right to file a grievance pursuant to this Employment Handbook.

**c) Retroactive Compensation**

If the investigation finds the accusation of serious misconduct unsupported by credible evidence or in the case of criminal charges, the charges are dismissed, without sanctions, penalties/probation, and/or the employee is found to be not guilty, wages lost during the period of approved Unpaid Administrative Leave, up to 90 days, less any unemployment or employment related compensation (i.e. income from a different employer) or paid leave received by the employee during the period of administrative leave, will be paid retroactively to the employee.

If an individual's employment with the Tribe is terminated prior to utilizing 90 days of administrative leave due to necessity, voluntary resignation, or any reason other than cause, the employee will receive retroactive pay for only that portion of time during which the employee was on approved Unpaid Administrative Leave.

If the tribal program or position where the employee worked was discontinued while the employee was on Unpaid Administrative Leave, the employee will be granted retroactive pay only up to the time the program or position was discontinued.

If the matter remains unresolved for more than 90 days of Unpaid Administrative Leave, the employee may be terminated without cause or the leave may be extended for another 90 days. If the Human Resources investigation later finds the accusation of serious misconduct unwarranted, or in the case of criminal charges, the charges are dismissed without sanctions, penalties/probation, and/or the employee is found to be not guilty, wages lost during the period of approved Unpaid Administrative Leave, up to 180 days, less any unemployment or employment related compensation (i.e. , income from a different employer) or paid leave received by the employee during the period of Unpaid Administrative Leave, will be paid retroactively to the employee.

Upon final disposition of the investigation, the employee may seek re-employment with the Tribe in accordance with the Tribe's rehire policies and procedures.

Nothing in this Section D.4 alters or diminishes the terms and conditions applicable to background checks provided in Part II, Section F.

**d) Termination for Cause**

An employee who is determined by an investigation, by the Tribal Administrator and/or Human Resources Director to have committed serious misconduct is subject to disciplinary action up to and including termination, whether or not charged and convicted criminally. The employee retains the right to file a grievance pursuant to this Employment Handbook.

An employee who is convicted of a crime such as assault, battery, domestic violence, theft, financial related crime or any crime considered a felony under state, federal, or tribal law; or a crime where a conviction would prevent the employee from carrying out their duties may be terminated for a cause whether or not the conduct that is the basis of the charge occurs within the workplace.

**5. Reassignment of Job Duties**

When an employee is arrested and charged in any jurisdiction with a crime that, if convicted, would make the employee unable to pass the necessary background check for their current position, the employee will be placed on Unpaid Administrative Leave under Section D.4 above. Based on the facts and circumstances of the situation and the nature of charges, that position, with the approval of the employee and the supervisor of the new position, may be reassigned to another different available position in the same or different department. The employee will be compensated at the appropriate wage scale for the new position. If the employee is not convicted and their original position is still open, the employee will be returned to their original job. If the original position is filled at the time the employee is not convicted, the employee may remain in the position they were reassigned to or may apply for any open position for which they qualify. A reassignment under this Section D.4 does not preclude the Tribe from disciplining or terminating the employee as otherwise provided in this Handbook, including without limitation based on the outcome of a criminal charge.

**Section E. Donated Leave**

A non-probationary employee may donate leave to another employee in extraordinary circumstances if written request is made by the donating employee and permission is granted by the Director/Supervisor and Human Resources Director. The donating employee, though, must maintain a minimum combined balance of 40 hours in their paid leave amounts.

Employees who are requesting donated leave must have used up all their available paid leave and must apply for the Tribe's short and/or long-term disability benefits, if eligible, before requesting donated leave. Donated leave is only allowed in the case of catastrophic illness of the employee or an Immediate Family Member of the employee. Any donated leave that is not used shall be returned to the employee who donated such leave.

Catastrophic illness is a personal emergency limited to catastrophic and debilitating medical situations, severely complicated disabilities, and severe accidental injuries which cause the employee to be incapacitated from the performance of assigned job duties, which require a prolonged or intermittent periods of recuperation, and which require the employee's absence from duty as documented by a physician or other qualified healthcare provider. The Tribe may require a doctor's statement or other documentation to support the request.

**Section F. Medical Insurance**

The Tribe provides a medical insurance benefit at no cost to full-time employees, which for purposes of medical insurance includes any employee who works at least an average of 30 hours per work week. This benefit becomes effective the first of the month following 60 days after an employee commences employment. In the event a part-time employee becomes full-time, the time spent as a part-time employee shall count towards the 90-day eligibility period. Employees should consult the insurance plan (available in the Finance Department or Human Resources) for more complete information about coverage and eligibility. Coverage for dependents may be paid through payroll deductions.

To enroll, employees must contact Human Resources during the month before they become eligible or within 30 days after a qualifying event such as a marriage, death of spouse, birth of child, or loss of insurance. Failure by an employee to submit their insurance paperwork in a timely manner may result in non-enrollment until the next open enrollment period.

**Section G. Workers' Compensation**

Employees injured on the job may receive workers' compensation insurance benefits at no cost, which may include medical care, light duty work or other benefits according to the workers compensation insurance policy. To receive workers compensation benefits:

1. Report any work-related injury or illness to your supervisor immediately. FBC members who are employees shall report to the Chairman, Vice-Chairman, or Human Resources Director.
2. Seek medical treatment and follow-up care, if required.

3. Submit documentation to your supervisor or Human Resources Department within 24 hours of being injured, including the health care provider's certification of a work-related injury or illness, the inability to work, and the expected duration of leave.

Claims not received by the insurance company within prescribed time limits may not be approved.

An employee injured on the job will be drug tested as soon as possible, as provided in Part VII of this policy.

The Tribe will report any concerns of false or fraudulent claims to the workers' compensation insurance carrier for investigation. Any person who makes or causes to be made any material statement of representation known to be false or fraudulent, for the purpose of obtaining or denying workers' compensation benefits or payments, may be guilty of a crime and subject to criminal and civil penalties.

As an alternative to leave, the Tribe may offer the employee modified or light duty work according to the instructions of the workers' compensation insurance carrier.

During workers' compensation leave, the employee is not entitled to compensation. However, the employee may be eligible for compensation under the Tribe's workers' compensation insurance or may utilize accrued paid leave provided the total compensation does not exceed the regular compensation received at the time of injury.

Workers' compensation leave runs concurrently with family and medical leave.

If the employee is not eligible for health care benefits during workers' compensation leave under the Family Medical Leave Act or workers compensation, the employee will receive health care benefits on the same basis as other employees taking leave. In some cases, the employee may be offered COBRA health care benefits in lieu of employer-paid health care benefits. It is the employee's responsibility to take the necessary steps for COBRA eligibility.

If, upon return to work, the employee is disabled, the Tribe will attempt to provide a reasonable accommodation under Part II, Section A of this Handbook.

## **Section H. Unemployment Compensation**

The Tribe contributes to the State of Nevada Unemployment Compensation Fund on behalf of its employees. Eligibility for unemployment is determined by Nevada employment statutes.

## **Section I. Training Programs and Seminars**

Employees may be required or may request to attend a training seminar or conference if approved in writing by their supervisor. Section 14.20 of the Tribe's Financial Management Policies and Procedures must be followed.

**Section J. Non-Medical Leaves of Absence**

The Tribe may grant a leave of absence for non-medical reasons in its sole discretion. Non-medical leave must be approved in advance and in writing by the requesting employee's supervisor. Before granting or denying the request, the supervisor should forward the request to the Department Director/Supervisor and Tribal Administrator. If leave is granted, the employee must comply with the terms and conditions of the leave, including maintaining regular contact with the supervisor, or in the supervisor's absence, the Tribal Administrator, during their leave and must give prompt notice if there is any change in the return-to-work date, which may or may not be approved.

An employee may not accept other employment or apply for unemployment insurance while on a leave of absence. Acceptance of other employment while on leave will be treated as a voluntary resignation from employment. Benefits such as paid time off, vacation and holidays will not accrue while on unpaid non-medical leave of absence.

Upon return to work, the employee will be credited with the full employment status that existed prior to the start of the leave. The employee will not receive credit for time served during the unpaid portion of any leave, except that employee will retain original date of hire.

The Tribe may defer or proceed with any counseling, performance review, or disciplinary action, including discharge that was contemplated prior to, or has been identified during, any non-medical leave of absence. If any such action is held in abeyance during the leave of absence, the Tribe reserves the right to proceed with the action upon the employee's return.

**Section K. Family and Medical Leaves of Absence**

The Tribe has opted to follow the Family Medical Leave Act and will grant leave in accordance with that Act. An employee must contact his or her supervisor as soon as the employee becomes aware of the need for a family and/or medical leave. The following is a summary of relevant provisions of the Act as of the date this Handbook is adopted. If the Act or its regulations are amended, the Tribe will follow any such amendment.

**1. Overview**

The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Eligible employees are entitled to twelve workweeks of leave in a 12-month period for:

- a) the birth of a child and to care for the newborn child within one year of birth;
- b) the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- c) to care for the employee's spouse, child, or parent who has a serious health condition;
- d) a serious health condition that makes the employee unable to perform the essential functions of his or her job;



- e) any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty" as defined by the Act; or
- f) twenty-six workweeks of leave during a single 12-month period to care for a covered military member or recent veteran with a serious injury or illness if the eligible employee is the military member's spouse, son, daughter, parent, or next of kin (military caregiver leave).

## **2. Intermittent/Reduced Leave Schedule**

- a) When it is medically necessary, employees may take FMLA leave intermittently – taking leave in separate blocks of time for a single qualifying reason – or on a reduced leave schedule – reducing the employee's usual weekly or daily work schedule. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the operations of the department they are located in.
- b) Employees needing intermittent/reduced schedule leave for foreseeable medical treatments must work with their employers to schedule the leave so as not disrupt the department's operations, subject to the approval of the employee's health care provider. In such cases, the Tribe may transfer the employee to an alternative job with equivalent pay and benefits that accommodate recurring periods of leave better than the employee's regular job.

## **3. Employee Eligibility**

To be eligible for family and medical leave benefits, the employee must:

- a) have worked for the Tribe for at least the 12 months prior to the start of the proposed leave; and
- b) have worked at least 1,250 hours over the 12 months prior to the start of the proposed leave.

## **4. Notice and Certification**

To receive family and medical leave, an employee may be required to provide:

- a) 30-day advance notice when the need for the leave is foreseeable, however, the employee must comply with the Tribe's "usual and customary" notice and call-in procedures, absent any unusual circumstances.
- b) Certification from a health care provider (both prior to the leave and prior to reinstatement). The Tribe reserves the right to request a second or third opinion for certifications/recertifications.
- c) Recertifications whenever possible (i.e., for new leave requests, when the reason for leave changes, when leave is extended, when a new leave year starts, when the leave circumstances change, if there is a pattern of suspicious absences, if there is objective information that provides a reason to doubt the need for leave, etc.).
- d) Periodic reports during the leave.

When leave is needed to care for an Immediate Family Member or an employee's own serious health condition, and is for a planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the Tribe's operation.

The Human Resources Department shall notify the appropriate Director/Supervisor of an employee is approved for family and medical leave. No information about the situation shall be divulged only that the employee has been approved, the type of leave (full or intermittent/reduced leave schedule), and any other relevant information.

#### **5. Leave Requests – In Writing and Certification**

All employees must document any family and medical leave requests in writing to Human Resources and the immediate supervisor unless there are unusual circumstances that prevent the employee from doing so. This ensures that there is no misunderstanding about the type of leave being requested or the dates or circumstances giving rise to the need for leave. Employee may also be required to sign a personal certification or acknowledgement following each absence which confirms that leave taken was for an approved FMLA purpose.

#### **6. Secondary Employment while on FMLA Leave Prohibited**

The Tribe prohibits outside employment (including self-employment) that conflicts with employment at the Tribe, or impacts the employee's work performance or schedule, or affects the business interests of the Tribe while an employee is on FMLA leave.

#### **7. Compensation during Leave**

Family and medical leave is unpaid. However, the Tribe requires the employee to use accrued paid leave (such as vacation, PTO, and other paid time off) concurrently to cover their family and medical leave unless they have no accrued paid leave available. The use of paid time off will not extend the length of a family and medical leave.

#### **8. Benefits during FMLA Leave**

Any group health insurance coverage that the employee was provided is maintained on the same terms during the leave as if the employee continued to work instead of taking leave. The Tribe will continue to pay whatever share of the insurance premiums it would pay if the employee was still working (the employee would pay nothing for himself or herself and pay regular premiums for dependents).

#### **9. Undue Hardship**

The Tribe does not have to provide a reasonable accommodation that would cause an "undue hardship" to the employer. Undue hardship means, with respect to the provision of an accommodation, significant difficulty or expense incurred by the Tribe, when considered in light of the factors set forth below. In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include:

- a) The nature and net cost of the accommodation needed under this part, taking into consideration the availability of funding at the Tribe;

- b) The overall financial resources of the Tribe program involved in the provision of the reasonable accommodation, the number of persons employed at the tribal program, and the effect on expenses and resources;
- c) The overall financial resources of the Tribe, the overall size of the Tribe with respect to the number of its employees, and the number, type and location of its operations;
- d) The type of service provided to the Tribe, including the composition, structure and functions of the workforce; and
- e) The impact of the accommodation upon the operation of the tribal program or the Tribe, as a whole, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

The general principle is that an accommodation does not have to be offered if it is an undue hardship for the Tribe. Although the full resources of the Tribe, not just the particular tribal program the employee is in, would be considered when making this decision, the Director/Supervisor and Tribal Administration needs to be consulted. A potential negative effect on the morale of other employees is not an undue hardship.

#### **10. Key Employee Provision**

A "key employee" is a salaried FMLA-eligible employee who is among the highest paid 10% of all employees working for the Tribe. The key employee must be among the highest paid 10% of all employees, both salaried and non-salaried. The Tribe may be able to deny reinstatement to a key employee following FMLA leave. The designation of a Key Employee must be done by the FBC.

In order to deny restoration to a key employee, the Tribe must determine that restoration will cause substantial and grievous economic injury to the operations of the Tribe. It is not sufficient for the employer to find that the absence of the key employee will cause such substantial and grievous injury. This section does not create a precise test to determine the level of hardship. They do note the following, however:

- a) The Tribe may take into account its ability to replace on a temporary basis (or temporarily do without) the key employee. If permanent replacement is unavoidable, then the Tribe may consider the cost of reinstating the employee in evaluating whether substantial and grievous economic injury will occur from restoring the employee to an equivalent position.
- b) If the reinstatement of a key employee threatens the economic viability of the Tribe, that would constitute substantial and grievous economic injury. A lesser injury which causes substantial, long-term economic injury would also be sufficient.
- c) Minor inconveniences and costs that the Tribe would experience in the normal course of doing business would certainly not constitute substantial and grievous economic injury.

If the Tribe believes that reinstatement may be denied to a key employee, Human Resources will provide written notice to the employee at the time that the employee gives notice of the need for FMLA, or the employee commences FMLA leave, whichever is earlier, that he or she is a key employee. Human Resources shall fully inform the employee of the potential consequences as detailed in this section.

As soon as the FBC makes a good faith determination that restoration will result in substantial and grievous economic injury to its operations through a Key Employee Designation, Human Resources shall provide written notice to the employee of its determination that while the Tribe will not deny FMLA leave, it intends to deny restoration to employment at the completion of FMLA leave. This notice must be served in person or by certified mail, and must provide the basis for the Tribe's finding. In lieu of FMLA leave, the Tribe must provide the key employee reasonable time to return to work.

After providing notice that restoration will result in substantial and grievous economic harm to the Tribe, the employee is still entitled to request reinstatement at the end of FMLA leave, and the Tribe must make a new determination regarding whether the key employee can be reinstated. This new determination must be made based on the facts at that time. If it is again determined that substantial and grievous economic injury will result, the Tribe shall provide written notice in person or via certified mail of the denial of restoration.

## **11. Job Reinstatement**

Under most circumstances upon return from family and medical leave within the designated time frame, the employee will be reinstated to his/her previous position, or to a position with substantially the same duties, responsibility and status, and equivalent schedule, level of skill, responsibility, effort, authority, pay, and benefits. However, upon such return, employees have no greater right to reinstatement than if they had been continuously employed rather than on leave. For example, if an employee would have been laid off even if they had not gone on family and medical leave, or if their position would have been eliminated during the leave, then they will not be entitled to reinstatement.

If an employee returns from family and medical leave which was taken for his/her own serious health condition, but is unable to perform the essential functions of his/her job because of a disability, the Tribe will attempt to make a reasonable accommodation under applicable tribal policies.

## **Section L. Military Leave Reemployment**

The Tribe has opted to follow the Uniformed Services Employment and Reemployment Rights Act (USERRA), a federal law that provides reemployment rights for veterans and members of the National Guard and Reserve following qualifying military service. USERRA requires that service members who conclude their tours of duty and who are reemployed by their civilian employers receive all benefits of employment, including without limitation seniority, status, pay and benefits, that they would have obtained if they had been continuously employed, except those benefits that are considered a form of short-term compensation, such as accrued paid vacation.

The Tribe will reemploy service members returning from a period of service in the uniformed services if those service members meet five (5) criteria:

1. The person must have been absent from a civilian job on account of service in the uniformed services;
2. The person must have given advance notice to the Tribe that he or she was leaving the job for service in the uniformed services, unless such notice was precluded by military necessity or otherwise impossible or unreasonable;
3. The cumulative period of military service with the Tribe must not have exceeded 5 years;
4. The person must not have been released from service under dishonorable or other punitive conditions; and
5. The person must have reported back to the Tribe in a timely manner or have submitted a timely application for reemployment, unless timely reporting back or application was impossible or unreasonable.

Temporary employees may not be eligible for reinstatement following military leave.

#### **Section M. Funeral or Bereavement Leave**

Regular full-time and part-time employees regardless of probationary status may be granted paid Funeral or Bereavement Leave by the Director/Supervisor under the following conditions:

1. Absence of up to 5 days will be permitted for bereavement of an Extended Family Member, as defined in this policy, or an Extended Family Member of the employee's spouse/significant other.
2. If an employee desires more than 5 days for bereavement leave, the employee may use accrued leave to cover the absence.
3. With prior approval of the immediate supervisor, an employee may be permitted bereavement leave of up to four (4) hours to attend the funeral of a tribal member or staff member.
4. Any employee requesting bereavement leave shall notify their immediate supervisor as soon as possible of the need for leave.
5. Appropriate documentation may be required to substantiate payment for the requested leave.
6. An employee can submit to take their Vacation or PTO leave if not eligible for Funeral or Bereavement Leave.

**Section N. Jury Duty**

The Tribe encourages employees to serve on jury duty when called. Employees must notify their supervisor of the need for time off for jury duty as soon as a notice or summons from the court or a subpoena is received. Employees will receive full pay while serving up to 14 days of jury duty. Any other time off for this purpose will be without pay. Any payments by the court for jury duty, such as mileage allowances, per diem, or other fees must be endorsed back to the Tribe during the first 14 days. If jury duty lasts beyond 14 days, the employee may keep any payments made by the court. The employee will be required to provide verification from the court clerk confirming their service as a juror, and the employee will be expected to report or return to work for the remainder of their work schedule on any day the employee is dismissed from jury duty. The Tribe will maintain the employee's position during the time an employee is serving on a jury.

**Section O. Witness Duty**

Employees may take the minimum amount of time off necessary without pay to accommodate any required attendance as a witness in a legal proceeding. Employees may use accrued leave if available unless the employee has been subpoenaed as part of their job position/duties with the Tribe in which case it shall be considered as part of their regular time. Employees shall notify their supervisor of the need to take time off as far in advance as is possible, but in no event later than on the day prior to taking witness leave. The employee must attach a copy of their summons or subpoena.

**Section P. Time Off for Volunteer Firefighters**

A registered volunteer firefighter who would like to perform temporary emergency duty during work hours must receive written, advance approval from his/her supervisor and the Tribal Administrator and must alert his/her supervisor before leaving the work premises when summoned for emergency duty. All time off to serve as a volunteer is without pay.

If the Volunteer Firefighter is volunteering outside of tribal lands and Churchill County, and/or receives pay for services, the maximum amount of time off is 30 days per calendar year for regular full or part-time employees.

**Section Q. Employee Counseling Program**

The Tribe offers an Employee Counseling Benefits program, as part of its ancillary benefits services, which provides confidential access to professional counseling for help in confronting such personal problems such as alcohol and other substance abuse, marital and family difficulties, financial or legal troubles, and/or emotion distress. This program is available to employees with the Tribe's health insurance offering problem assessment, short-term counseling, and/or referral to appropriate community and private services.

## PART VI - PROHIBITED CONDUCT

### **Section A. Prohibited Conduct**

In order to assure orderly operations and provide the best possible work environment, the Tribe expects employees to follow rules of conduct that will protect the interests and safety of all personnel. Below is a list of examples that are unacceptable conduct. It is not possible to anticipate and list all the forms of behavior that are considered unacceptable in the workplace, but the following are examples of infractions of rules of conduct that may result in disciplinary action or termination of employment:

1. Falsification of employment records, employment information, or other records.
2. Making false reports, including without limitation false reports of hours worked, discrimination, harassment, or bullying.
3. Recording the work time of another employee, allowing any other employee to record your work time, or allowing falsification of any time card, whether your own or another employee's.
4. Theft or the deliberate or careless damage of any tribal property or the property of any fellow employee or tribal member.
5. Removing or borrowing tribal property without prior authorization.
6. Unauthorized use of tribal equipment, time, materials or facilities.
7. Drinking or being under the influence of alcohol in the workplace or during working hours.
8. Possessing, distributing, selling, transferring, or using or being under the influence of illegal or illicit drugs in the workplace.
9. Making threatening or intimidating comments, provoking a fight or fighting during working hours, or on premises owned, leased, or otherwise occupied by the Tribe.
10. Excessive horseplay or practical jokes on the job on premises owned or occupied by the Tribe.
11. Carrying firearms or any other dangerous weapons, at any time, on premises owned or occupied by the Tribe.
12. Criminal conduct whether or not related to job performance.
13. A criminal conviction that would cause a current employee to be ineligible for employment under the Tribe's Background Investigation Policies & Procedures.
14. Failing to report required incidents if identified as a "Mandatory Reporter".
15. Causing, creating, or participating in a disruption of any kind during working hours or on premises owned or occupied by the Tribe.
16. Insubordination, including but not limited to failure or refusal to obey the orders or instructions of any supervisor or member of management, or the use of abusive or threatening language toward any supervisor or member of management.
17. Profane or abusive language at any time during working hours or while on premises owned or occupied by the Tribe.
18. Failing to notify the appropriate supervisor when unable to report to work.
19. An unreported absence on a scheduled workday.

20. Failing to obtain permission to leave work for any reason during normal working hours.
21. Failing to observe work schedules, including rest and lunch periods.
22. Failing to provide a doctor's note/physician's certificate when requested or required to do so.
23. Failing to provide a copy of a driving record on an annual basis, as set forth in Part II, Section R, if driving is a required part of an employee's job duties/responsibilities.
24. Sleeping or malingering on the job.
25. Working overtime without authorization, or refusing to work assigned overtime.
26. Wearing extreme, unprofessional, or inappropriate styles of dress or hair while working, or which are unsafe or inappropriate for the department.
27. Failure to maintain and ensure the safety of the Tribe's physical environment (e.g., fire safety violations, leaving areas open/unsecured, etc.) or violating any safety, health or security policy, rule or procedure of the Tribe.
28. Negligent performance of duties/responsibilities or providing services below acceptable standards of care or established protocols.
29. Committing a fraudulent act or a breach of trust.
30. Excessive absences or tardies/lateness.
31. Using tobacco products on tribal property outside of designated smoking areas, in tribal vehicles, or at other prohibited times/locations as set forth in this policy.
32. Violating any tribal or federal confidentiality rules or policies.
33. Possession or use of pornographic/sexually explicit materials in the workplace or use of tribal equipment to access, view or store pornographic/sexually explicit material.
34. Engaging in prohibited discrimination or harassment.
35. The ability to obtain or the loss of any required licensures, certifications, accreditations, or other elements that negatively impact an employee's ability to do perform their job and/or creates significant consequences to the Tribe.
36. Impeding, interfering with, or failing to cooperate in an official internal or external investigation conducted by or at the request of the Tribe.
37. Violating any of the Tribe's written policies, including without limitation the policies set forth in this Handbook.

## **Section B. Discrimination, Harassment, and Bullying**

The Tribe strives to create and maintain a work environment in which people are treated with dignity, decency and respect. The work environment should be characterized by mutual trust and the absence of intimidation, oppression and exploitation. Employees should be able to work and learn in a safe, yet stimulating atmosphere. The accomplishment of this goal is essential to our mission. For that reason, the Tribe will not tolerate unlawful discrimination, harassment, or bullying of any kind by anyone, including directors, managers, employees, applicants, customers, vendors, members, volunteers, contractors or elected officials. Through enforcement of this policy and by education of employees, the Tribe seeks to prevent, correct and discipline behavior that violates this policy.



All employees, regardless of position, are covered by and are expected to comply with this policy and to take appropriate measures to ensure that prohibited conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this policy. Based upon the seriousness of the offense, disciplinary action may include but is not limited to verbal or written reprimand, suspension or termination of employment. Appropriate action will also be taken against any non-employee and possible measures include restricting access, reporting the incident to the appropriate law enforcement agency, or any other necessary action to protect employees.

## **1. Discrimination**

It is a violation of this policy to discriminate in the provision of employment opportunities, benefits or privileges; to create discriminatory work conditions; or to use discriminatory evaluative standards in employment if the basis of that discriminatory treatment is, in whole or in part, the person's race, color, national origin, age, religion, disability status, gender, veteran status, political affiliation, sexual orientation, genetic information or marital status.

## **2. Harassment**

Harassment, including sexual harassment, is prohibited. This policy prohibits harassment of any kind, and the Tribe will take appropriate action to address any violations of this policy.

### **a) Workplace Harassment**

Workplace harassment is any unwelcome verbal, written or physical conduct that either denigrates or shows hostility or aversion towards a person on the basis of race, color, national origin, age, religion, disability status, gender, veteran status, political affiliation, sexual orientation, genetic information or marital status or any other characteristic protected by law or that of his/her relatives, friends or associates that:

- 1) Has the purpose or effect of creating an intimidating, hostile or offensive work environment;
- 2) Has the purpose or effect of unreasonably interfering with an employee's ability to perform their job duties; or,
- 3) Otherwise adversely affects an individual's employment opportunities.

### **b) Sexual Harassment**

Sexual harassment constitutes discrimination and is illegal under federal, state and local laws. Sexual harassment is defined as any unwelcome sexual advance, request for sexual favors or verbal or physical conduct of a sexual nature when:

- 1) Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- 2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; and/or
- 3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is unwelcome, that is personally offensive, and that lowers morale and therefore interferes with work effectiveness. Sexual harassment may take different forms.

Normal, courteous, mutually respectful, pleasant, non-coercive interactions between employees, including men and women, that are acceptable to and welcomed by both parties, are not considered workplace or sexual harassment.

There are basically two types of sexual harassment:

- "Quid pro quo" harassment, where submission to harassment is used as the basis for employment decisions. Employee benefits such as raises, promotions, better working hours, etc., are directly linked to compliance with sexual advances. Therefore, only someone in a supervisory capacity (with the authority to grant such benefits) can engage in quid pro quo harassment. Example: A supervisor promising an employee a raise if she goes on a date with him; a director telling an employee she will fire him if he does not have sex with her.
- A "hostile work environment" is where the harassment creates an offensive and unpleasant working environment. Hostile work environment can be created by anyone in the work environment, whether supervisors, other employees or customers. Hostile environment harassment consists of verbiage of a sexual nature, unwelcome sexual materials or unwelcome physical contact as a regular part of the work environment. Texts, emails, cartoons or posters of a sexual nature, vulgar or lewd comments or jokes, or unwanted touching or fondling all fall into this category.

### **3. Workplace Bullying**

Bullying is unreasonable behavior by an individual (or a group) that demeans, intimidates, degrades or humiliates an individual or a group of individuals. Bullying is usually repeated behavior or actions creating an on-going pattern, but it can also occur as a single incident. Some examples of bullying behavior include, but are not limited to:

- a) Personal attacks (angry outbursts, excessive profanity, or name-calling);
- b) Personal insults and use of offensive nicknames;
- c) Public humiliation;
- d) Encouragement of others to turn against the targeted employee;
- e) Spreading rumors and gossip about the targeted employee;
- f) Sabotage of a coworker's work product or undermining of an employee's work performance;
- g) Threats of abuse to an individual or an individual's property (defacing or marking up property);
- h) Being unjustifiably offensive toward fellow employees or the public;
- i) Making threats about job security without foundation; and/or
- j) Repeated infliction of verbal abuse, such as the use of derogatory remarks, insults and epithets.

- k) Deliberately undermining a competent worker with excessive demands and unreasonable criticism;

Bullying conduct does not include:

- Disciplinary action taken in accordance with applicable law, regulation or policy;
- Routine coaching and counseling, including feedback about and correction of work performance or conduct;
- Exercising the department's prerogative to appoint, promote, transfer, or reassign an employee, to direct or assign work, and to determine and redetermine the methods and means by which an agency's functions will be carried out;
- Individual differences in styles of personal expression which may lead to conflict, provided that the expression is not meant to intimidate; and/or
- Having differences of opinion on work-related concerns.

#### **4. Retaliation**

The Tribe prohibits retaliation against any individual who reports discrimination, harassment, or bullying or who participates in an investigation of such reports. Retaliation against an individual for reporting harassment or discrimination or for participating in an investigation of a claim of harassment or discrimination is a serious violation of this policy, and, like harassment or discrimination itself, will be subject to disciplinary action up to and including termination.

#### **5. Reporting an Incident**

The Tribe strongly urges the reporting of all incidents of discrimination, harassment, bullying, or retaliation, regardless of the offender's identity or position. Individuals who believe they have experienced conduct that they believe is contrary to this policy or who have concerns about such matters should file their complaints with their immediate supervisor, the Director, or Human Resources Director before the conduct becomes severe or pervasive.

Any supervisor or department Director who receives a complaint under this policy must immediately inform the Human Resources Director of such complaint.

The availability of this complaint procedure does not preclude individuals who believe they are being subjected to harassing conduct from promptly advising the offender that his or her behavior is unwelcome and requesting that it be discontinued.

#### **6. Investigation**

On receiving the complaint, the Human Resources Director, or designee, will promptly undertake an investigation into the matter. The investigation may include interviews with the employee making the complaint, with witnesses, and with the person accused of bullying. Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action. If the complaint is against Human Resources, then the Tribal Administrator will handle the investigation. While the investigation is ongoing, the Human Resources Director or designee may make appropriate accommodations so as to minimize contact between the complainant and the person accused of the conduct in question.

## **7. Discipline**

When the investigation is completed, the Tribe will, to the extent appropriate, inform the person who filed the complaint, as well as the person alleged to have committed the complained of conduct, of the results of the investigation. If the investigation reveals that discrimination, harassment, bullying, and/or retaliation did occur, the Tribe will act promptly to eliminate the conduct. Any employee found to have subjected another employee to discrimination; harassment or retaliation shall be subject to disciplinary action up to and including termination.

### **Section C. Policy against Workplace Violence**

The Tribe has zero tolerance for workplace violence. Workplace violence is violence or the threat of violence toward others. It includes any intentional conduct that is sufficiently severe, offensive, or intimidating to cause an individual to reasonably fear for his or her personal safety or the safety of his or her family, friends, or property. It also includes threats or acts of violence that affect the business interests of the Tribe or that may lead to an incident of violence on the Tribe's premises. Workplace violence also includes the intentional destruction or threat of destruction of the Tribe's property or another employee's property, harassing or threatening phone calls, and stalking.

Any person who engages in workplace violence may be reported to Tribe's law enforcement agency and/or removed from the premises as quickly as safety permits.

### **Section D. Accepting Gifts**

Employees must decline or return any gift or gratuity valued in excess of ten dollars (\$10.00) from any member, vendor, supplier, or other person doing business with the Tribe. In doing so, employees should explain that the Tribe prohibits employees from accepting gifts or gratuities to ensure that business decisions, transactions, and services are provided on an objective and professional basis. However, this does not preclude employees from accepting donations for the Tribe in excess of \$10.00 and deposited in the Tribe's account or placed into tribal inventory.

### **Section E. Employment outside Work**

The Tribe prohibits outside employment (including self-employment) that conflicts with employment at the Tribe, or impacts the employee's work performance or schedule, or affects the business interests of the Tribe. The Tribe also prohibits the use of any tribal resources, equipment, or other items for outside employment purposes.

### **Section F. Fraternization Rules**

Except as provided below, employees may develop friendships and relationships both inside and outside of the workplace, as long as the relationships do not negatively impact work and are consistent with this policy.

## **1. Direct Supervisor-Subordinate Relationships**

Anyone employed in a supervisory role must recognize that personal relationships with employees who report to him or her may give rise to the perception of favoritism, misuse of authority, or sexual harassment. For these reasons, supervisors are prohibited from having an intimate relationship with a subordinate employee. This policy applies to direct supervisor-subordinate relationships.

In the event a supervisor and an employee at any level in the chain of command below the supervisor enter into an intimate relationship, they each have an affirmative duty to report their relationship to the Human Resources Director immediately to ensure that this policy is followed.

In the case of any employee who, as a result of the temporary unavailability of their immediate supervisor (e.g., leave status, off-site training, etc.), has an intimate relationship with their second-level supervisor, the Director/Supervisor or Tribal Administrator shall delegate another management official to handle supervisory functions and personnel actions regarding that employee during the temporary unavailability of the immediate supervisor.

## **2. Non-Supervisory Employee Relationships**

Non-supervisory employees are strictly prohibited being in an intimate relationship with any other employee of their department. This includes seasonal employees, administrative staff, and other employees in the employee's department. This applies to departments with less than 10 employees. For departments with more than 10 employees, this fraternization probation shall apply only within the various division or program areas of the department and not department-wide.

In the event two non-supervisory employees enter into an intimate relationship they each have the affirmative duty to report their relationship to the Human Resources Director immediately to ensure this policy is followed.

## **3. Other Conduct Prohibited**

All behavior between employees at work must be professional. Hand holding, kissing, hugging, sexual comments and other behaviors generally associated with an intimate relationship are prohibited. Intimate relationships shall not interfere with the orderly administration of tribal services or employee work product or productivity.

Violation of this policy may result in a transfer, discipline, or termination of one or more of the involved employees. Upon receipt of any violation of this policy, the Human Resources Director will make recommendations to the Tribal Administrator who will take action to ensure the relationship will not interfere with the professional work environment, the orderly administration of tribal services and employee work product or productivity.

Despite the terms of this policy, employees may need assistance determining if their relationship constitutes an intimate relationship. Consequently, questions may be addressed to the Tribal Administrator or Human Resources Director.

**Section G. Recordings**

No audio or video or other recordings in the workplace are allowed unless **all** of the following conditions are met:

1. There is a legitimate purpose in the best interests of the Tribe;
2. The act of recording is in plain view; and
3. The person recording has written authorization to record from the person being recorded.

Nothing in this policy requires the Tribe, its court, or law enforcement agency to obtain authorization to record work activities.

## **PART VII - DRUG & ALCOHOL POLICY**

### **Section A. Philosophy and Purpose**

The Tribe maintains a strong commitment to provide a safe, efficient, and productive work environment. Employee involvement with alcohol or drugs can be extremely disruptive and harmful to the workplace. It can adversely affect the quality of work and the performance of employees, pose serious safety and health risks to the user, co-workers and the public, and have a negative impact on work efficiency and productivity. The Tribe is concerned that employees are in a condition to perform their duties safely and efficiently, in the interests of fellow workers and the public, as well as themselves. It is the purpose of this policy to eliminate substance abuse and its effects in the workplace. The Tribe is also committed to complying with Federal regulations pertaining to the attainment and maintenance of a drug free workplace. These requirements are outlined under the Drug-Free Workplace Act of 1988. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance or alcohol is prohibited in the Tribe's workplace.

The drug and alcohol policy shall apply to all full-time, part-time temporary/seasonal, and emergency employees of the Tribe; to all volunteers and temporary or permanent workers assigned to the Tribe; and to any other positions funded by an agency other than the Tribe (e.g. JOIN, ITCA, TERO) working under the supervision of the Tribe on tribal lands.

Violation of the drug and alcohol policy can result in disciplinary action up to and including discharge; however, the Tribe may, at its sole discretion, offer the employee an opportunity to seek chemical dependency treatment services as an alternative to disciplinary action, including termination. In these cases, the Tribe may, entirely at its own discretion, hold an employee's same or similar job position open upon successful participation in a treatment program subject to return to duty drug/alcohol testing, job availability and, at the Tribe's discretion, certain provisions of the Americans with Disabilities Act (ADA). Cost of treatment is the sole responsibility of the employee. Participation in treatment is voluntary and strictly confidential.

No information regarding the employee's chemical dependency problem will be placed in the employee's personnel file or discussed with his or her supervisor without written consent. In the event the employee does not come forward voluntarily to seek assistance and is later found in violation of the drug and alcohol policy, only information that is necessary for the performance of normal business will be shared with his/her Director/Supervisor. All other information will be held in strict confidence.

Employment with the Tribe is contingent upon, among other things, compliance with this policy. Failure to comply will subject an employee to immediate termination of employment.

The purpose of this policy is to provide standards to enforce the prohibition of improper use of drugs and alcohol, to guide employee conduct in order to ensure a safe and efficient work environment, to protect employees and tribal assets from injury or damage, and to promote the greatest efficiency of the work force.

**Section B. Testing Categories**

Drug and alcohol testing will be conducted under the following circumstances. Any employee or applicant who refuses to consent to the drug test, fails to comply with all testing procedures and requirements, or fails to pass the test will not be hired, have their Continued Employment Plan (Appendix K) terminated, or be subject to additional disciplinary action up to and including termination.

**1. Pre-Employment**

A statement reflecting this policy shall be included with all job announcements. Every applicant who is extended an offer of employment will be required, as a condition of employment, to submit to and pass a drug and alcohol test. However, the Tribe shall not refuse to hire an applicant because the applicant submitted to a screening test and the results of the screening test indicate the presence of marijuana.

If the test is positive, Human Resources Department shall notify the applicant of the results of the test. Human Resources shall dispose of records of positive drug tests that occurred more than 6 months prior, unless otherwise required to keep such records in the employee's file.

**2. Post-Accident Testing**

An employee will be required to submit to a drug and alcohol test if the employee suffers a reportable injury as a result of an on-the-job accident or the employee's job performance, actions or conduct either contributed to an accident or reportable injury or cannot be completely discounted as a contributing factor to an accident. A reportable injury includes any work-related fatality or any work-related injury or illness that results in loss of consciousness, time away from work, restricted work, a transfer to another position, or any work-related injury/illness requiring medical treatment beyond first aid.

The drug and alcohol test must be performed within 2 hours of the accident or if no facility is open then as soon as possible following the accident. The employee will be relieved of duty until the test results are available.

The accident report required by Part III, Section T of the Employee Handbook shall be prepared.

**3. Reasonable Suspicion**

An employee will be required to submit to a drug and alcohol test when the Tribe has reasonable suspicion to believe that the employee is under the influence of alcohol, illegal drugs, marijuana, or misuse of a prescribed drug.

Prior to requiring such test, the Director/Supervisor must identify behavior or other evidence which supports a reasonable suspicion the employee is under the influence of drugs, marijuana, or alcohol and inform the employee that a drug and alcohol test is required.

The employee will be relieved of duty until the testing results are available.



As soon as possible, the Director/Supervisor must complete a Reasonable Suspicion Report form, attached as Appendix J, and submit it to the Human Resources Director.

The Director/Supervisor shall contact the Tribe's law enforcement agency if there are drugs, drug paraphernalia, or alcohol in the work area to get direction/advice on how to proceed in such instances.

If the circumstances of reasonable suspicion are based in whole or in part on an accident, a written report should be prepared on an Accident/Injury Report Form as set forth in Part III, Section R of this policy.

#### **4. Random**

At least four times per year, at least 20% of the employees will be selected randomly and subjected to drug and alcohol testing. However, no employee should be called more than twice a year for a random test. The Human Resources Department will provide a complete list of employees to an outside, non-tribal entity to randomly select employees for drug and alcohol testing.

Upon receipt of the list, the Human Resources Department will coordinate with the Directors/Supervisors to schedule the testing in a manner that will minimize interruption to the workplace.

Each employee will be advised no more than 30 minutes before they are to be tested that they have been randomly selected for drug and alcohol testing and the Director/Supervisor shall ensure that each employee reports for testing within that timeframe.

#### **5. Follow-Up**

An employee who is returning to duty in accordance with a Continued Employment Plan will be subject to unannounced, unscheduled testing for no more than 12 months (with a minimum of once a month). The Human Resources Director and Director/Supervisor shall ensure that the Continued Employment Plan, is followed. The employee will be responsible for paying for the tests.

#### **6. Other**

FBC may order testing of the entire workforce at any time. Different or additional testing procedures may be applied to certain positions due to safety or other needs. Individuals who are offered such positions will be notified of the special drug and alcohol testing procedures applicable to that position.

### **Section C. General Testing Procedures**

The below procedures will be followed in testing:

1. Except in the case of random drug tests, which are overseen by the Human Resources Department, the Director/Supervisor shall inform the Human Resources Department in writing of any test, including the name of the employee and the date and reason for the test, as soon as practicable.

2. The Director/Supervisor shall contact the testing facility to schedule a test. Information about approved testing facilities is available from the Human Resources Department.
3. The Tribe will provide transportation, if possible, to and from the specimen collection site for any reasonable suspicion or post-accident test of an employee and ensure that the employee is transported home following testing. If possible, transportation should be provided by two tribal representatives.
4. Applicants for initial employment and employees subject to follow-up testing in accordance with a Continued Employment Plan will provide their own transportation to and from the testing facility.
5. The testing facility will use procedures that will ensure objectivity and that the results of all specimens are properly matched with the proper specimen provider.
6. All specimens with an initial positive test result for both applicants and employees will be maintained by the testing facility for at least 7 days in case an appeal is filed.
7. A positive test result of any applicant or employee will be communicated by the testing facility to the Human Resources Director only.
8. The Human Resources Director will communicate the positive test result to the involved Director/Supervisor and the applicant or employee as soon as possible and will record the date and time of such communication. Communication may be oral but should be followed up in writing.
9. All information regarding test results, rehabilitation, and counseling, will be treated by the testing facility and the Tribe as confidential and placed by the Human Resources Department in the applicant's or employee's medical file and kept separate from all other personnel-related data. The information will only be shared by the Human Resources Director with the applicant or employee being tested and, on a need, to know basis with tribal management personnel.
10. All costs of testing will be paid by the Tribe except in the case of appeal (as set forth below) or for testing for employees under a Continued Employment Plan.
11. All time dedicated by an employee to testing, including transportation to and from the testing facility, is paid time.
12. Time off work while test results are generated will be paid as Individual Administrative Leave.

#### **Section D. Prohibitions**

The following conduct is prohibited:

1. The use, possession, sale, distribution or being under the influence of illegal drugs, marijuana, or alcohol while on tribal property, while performing tribal business in any location, or in a tribal vehicle.
2. The use, possession, sale, distribution or being under the influence of illegal drugs, marijuana, or alcohol off the job when such use adversely affects the employee's on-the-job performance or behavior or the Tribe's reputation or ability to carry out tribal services.
3. The use of prescription or over-the-counter medication that is contrary to its intended use.

4. The failure to pass a drug or alcohol test.
5. The failure to consent to a drug or alcohol test when required by the Tribe or the failure to consent to an inspection of property for purposes related to compliance with this policy. Either such failure shall be treated the same as the failure to pass a drug or alcohol test.
6. The conviction of an employee for an illegal drug, marijuana, or alcohol-related crime on or off the job.

#### **Section E. Use of Prescribed and Over-the-Counter Drugs and Marijuana**

The use of other drugs lawfully obtained and properly used is permitted, including marijuana, subject to the prohibitions above. However, use of marijuana is not permitted for the following positions:

1. As a Law Enforcement Officer;
2. As a position this is required to operate a motor vehicle and/or for which federal or state law requires an employee to submit to screening tests;
3. In a position that has care and/or control of minor children, elders, and/or other vulnerable adults; or
4. That, in the determination of the Tribe, could adversely affect the safety of others.

Any employee taking medical/recreational marijuana, prescribed medication or over-the-counter drugs that may impair his or her ability to work safely or effectively, including without limitation the operation of motor vehicles or heavy equipment, must notify the Human Resources Department prior to beginning work. Failure to do so may result in discipline, up to and including termination.

#### **Section F. Peyote Use**

Peyote use and possession for religious purposes by a member of the Native American Church and that does not impair an employee's ability to work safely and effectively, including without limitation operation of motor vehicles or heavy equipment, is not prohibited. To qualify, the employee shall provide proof of membership in the Native American Church.

#### **Section G. Inspections**

If the Tribe has reason to believe that an employee is in possession or control of alcohol, illegal drugs or unauthorized prescription medication, the Tribe may conduct a search of the employee's work place. Employees are required to cooperate when searches are conducted.

#### **Section H. Required Notification of Conviction**

Employees are required to notify Human Resources of a conviction for illegal drug, marijuana, or an alcohol no later than five (5) working days after such conviction. Failure by an employee to notify Human Resources shall be cause for disciplinary action, up to and including termination.

**Section I. Consequences of the First Positive Test Result**

Any employee who registers a positive test result for the first time is subject to termination unless the employee enters into and abides by all terms and conditions of a Continued Employment Plan (Appendix K). Refusal by the employee to agree, or failure by the employee to comply, with all terms and conditions of the Continued Employment Plan will result in the employee's termination.

The CEP shall include the following requirements:

1. Acknowledgment of the positive drug or alcohol test.
2. Agreement by the employee to be assessed by a drug or alcohol counselor identified by the Tribe.
3. Agreement by the employee to authorize his or her counselor and any treatment facility staff to discuss and provide records about any findings, recommendations and treatment with the Human Resources Department.
4. Participation by the employee in all treatment recommended by the counselor, which may include referral to an in-patient or out-patient rehabilitation facility as well as all follow up treatment recommendations, such as ongoing counseling or a support group.
5. Agreement that all costs of treatment are the financial responsibility of the employee. Employees must use their own leave for treatment.
6. Agreement by the employee to abstain from alcohol and drugs, as required by the counselor.
7. Acknowledgment that the CEP is a "last chance;" another positive test result will result in immediate termination.
8. Agreement by the employee to unannounced, unscheduled testing, minimum of monthly, for 12 months following the employee's return to work. This shall be overseen by the Human Resources Department.

The Human Resources Department shall conduct monthly meetings with the supervisor to determine how the employee is doing under the Continued Employment Plan and/or to assist with identified additional support and resources for an employee.

An employee who voluntarily seeks assistance for a substance abuse problem before such a problem results in a violation of this policy, will not be subject to disciplinary action under this section. The Tribe, however, reserves the right to administer appropriate disciplinary action for incidents occurring prior to or after the request for assistance, if such actions or conduct violates this policy or other work rules or standards of the Tribe.

The Tribal Administrator, Human Resources Director, and the Director/Supervisor may grant a leave of absence may to employees who enter into a Continued Employment Plan and need to attend inpatient treatment. The employee must use their accrued leave first and then may be granted leave without pay (for a reasonable period of time).

**Section J. Appeal Procedure**

In the event of a positive test result, within 3 calendar days:

1. the employee may request in writing that the person in charge of testing at the testing facility retest the original specimen; and
2. the employee may provide a written explanation to the Human Resources Director for the positive drug test, such as proof that the positive drug test was the result of consumption of a prescription drug as directed by the employee's physician.

In either case, the Human Resources Director will determine, in consultation with any appropriate individuals such as the person in charge of testing at the testing facility or the prescribing physician, if the appeal has merit. If the appeal has merit, the positive test records, including any reference to it, will be stricken from the employee's record.

The employee is responsible for all costs associated with the additional test.

In the event of an employment applicant who fails a test, there is no appeal right. The Tribe, in its discretion, may opt to retest the original sample.

## **PART VIII - WHISTLEBLOWER POLICY**

### **Section A. Whistleblower Protection**

Any tribal employee, intern, or volunteer who in good faith and in the manner set forth in this policy reports illegal activity or gross mismanagement shall be protected from retaliation for making such reports. There shall be no adverse consequences in the terms and conditions of employment for such a report. Without limitation, there shall be no termination, discipline, demotion, reduction in pay, harassment, or other mistreatment of the reporting employee as a result of the report.

"Illegal activity" means actions or omissions of any tribal employee in the course of their employment that occurred within six months of the date of the report that the reporting tribal employee reasonably believes violates tribal or other applicable law.

"Gross mismanagement" means actions or omissions of any tribal employee within six months of the date of the report that the reporting employee reasonably believes constitutes a gross waste of tribal funds or a substantial and specific danger to the health or safety of others.

If a series of acts or omissions of illegal activity or gross mismanagement are of the same nature such that they constitute a pattern or practice, and at least one such substantial act or omission occurred within the six-month period, the entire pattern or practice may be considered by FBC.

Notwithstanding the above, the following matters may not be the subject of a whistleblower complaint: performance evaluations, discipline, layoff or termination, or alleged bullying, discrimination, or harassment, as those terms are defined by the Employment Handbook.

"Good faith" means an honest belief, based on observed facts, illegal activity or gross mismanagement has occurred.

### **Section B. How to Report**

A report of illegal activity or gross mismanagement shall be submitted on the Employee Whistleblower Report form (attached as Appendix L) to the FBC Secretary. If the report concerns the FBC Secretary, it may be submitted to the FBC Chairman (or if the report is both the Chairman and Secretary, then it may be filed with the FBC Vice-Chairman). The report should include as much detail as possible.

### **Section C. FBC Action**

The FBC Secretary shall provide copies of the report to the other members of FBC. Within 10 working days of receiving the report, the FBC shall have a closed session meeting that is not recorded to consider the report. At that meeting, the FBC shall decide on a course of action from the following choices:

1. No action will be taken because there is not a substantial likelihood that illegal activity or gross mismanagement has occurred.

2. No action will be taken because the matter should be addressed by other procedures in the policy and the FBC directs the proper personnel to address the matter.
3. Illegal activity or gross mismanagement may have occurred and an investigation is warranted. The investigation, including written summary of the results of the investigation, will be completed within 45 days of the FBC meeting. Within 10 working days of the completion of the investigation and receipt of the investigative report, the FBC shall have another closed session meeting to determine whether is a substantial likelihood that illegal activity or gross mismanagement has occurred and, if so, the action to be taken.
4. There is a substantial likelihood that illegal activity or gross mismanagement has occurred and action will be taken. The precise action will depend on the nature of the illegal activity.

Any decision by the FBC is final and not subject to review by any court.

In the event the FBC considers disciplining or terminating an employee as a result of a whistleblower complaint, the FBC shall first provide written notice of the proposed disciplinary action to the employee and shall provide a hearing before FBC where the employee can address the matter. In such case, FBC may follow the hearing protocol in this section or may revise the Hearing Protocol as necessary to meet the needs of the particular whistleblower complaint. A decision following such a hearing shall be final and not subject to further grievance procedures or review by any court.

The tribal employee who submitted the report may be informed of the FBC's final decision by the FBC Secretary (or FBC designee) within 5 working days of that decision.

#### **Section D. Investigation**

If the FBC decides to proceed with an investigation, the investigator shall be provided the report and allowed to review any evidence and interview any witnesses. A third party may be hired to conduct the investigation but is not required.

Upon completion of the investigation, an investigative report shall be prepared and include: (1) a summary of the information with respect to which the investigation was initiated; (2) a description of the conduct of the investigation; (3) a summary of the evidence obtained from the investigation; and (4) a description of any illegal activity or gross mismanagement. The investigative report may also provide a recommended course of action in light of the results of the investigation.

In its discretion, the FBC may provide the investigative report to the tribal employee whose report led to the investigation and afford that employee an opportunity to comment on the investigative report.

#### **Section E. Confidentiality**

To the extent possible, the FBC will keep the fact a whistleblower report was made and the contents of the report confidential. However, depending on the circumstances, it may be necessary to reveal the substance of the whistleblower report in order to take appropriate action. For example, in order to assess the merits of the report, it may be necessary to contact and

disclose certain details to the tribal employee allegedly engaged in illegal activity of gross mismanagement or other tribal employees or witnesses.

#### **Section F. Whistleblower Records**

Unless necessary to document discipline or termination of an employee as a result a whistleblower complaint, all records related to whistleblower reports shall not be part of any employee personnel file. Such records shall be maintained by the Tribal Secretary and discarded 1 year after the final action with respect to the report.

#### **Section G. Limitations**

This policy only applies to tribal employees.

If the whistleblower report is brought by or concerns an Immediate Family Member of a FBC member or there is a conflict of interest with a member of the FBC, that FBC member may not participate in or attend any of the whistleblower proceedings, except if called as a witness and allowed by FBC. If the Chairman is disqualified under this paragraph, the Vice-Chairman shall preside over the whistleblower proceeding. If both the Chairman and Vice-Chairman are unable to participate in the proceedings, then one of the other FBC Officers shall preside of the whistleblower proceeding.

However, an FBC member may attend a proceeding if necessary to establish/maintain a quorum but the FBC member shall not participate in any discussions or make a decision in that matter.

Nothing in this policy is intended to waive the Tribe's sovereign immunity.



## **PART IX - DISCIPLINE, GRIEVANCE, AND END OF EMPLOYMENT**

### **Section A. Disciplinary Action**

Disciplinary action may be given for violation of any tribal policy (including this handbook), or inappropriate or disrespectful conduct toward any other person.

Disciplinary action may include minor discipline (i.e., verbal reprimand, written reprimand) or major discipline (i.e., suspension up to a maximum of 30 days and with or without pay, demotion to a lower-level position within the same department, termination).

Employees demoted for disciplinary or performance-based reasons should expect to have their pay reduced, with the amount of reduction contingent on the severity of the offense or deficiency and to be determined by the Director/Supervisor and approved by the Human Resources Director. However, the demoted employee's salary rate must fall within the minimum and maximum staff of the assigned pay grade for the lower position.

One or more of these forms of discipline may be taken in connection with a particular employee. Disciplinary action may start at the level deemed most appropriate by management based on the seriousness of the violation. All disciplinary action must be done on the Progressive Discipline Form (see Appendix M).

#### **1. Minor Discipline**

Counseling, verbal warnings, or written reprimands must be approved in writing by the Director/Supervisor after consultation and guidance from the Human Resources Department. A copy of the completed and signed form must be submitted to the Human Resources Department.

#### **2. Major Discipline**

Major disciplinary action (e.g., demotions, suspensions, terminations) must be submitted by the supervisor and approved in writing by the Director (if different from the supervisor) and the Tribal Administrator after consultation and guidance from the Human Resources Department. A copy of the completed and signed form must be submitted to the Human Resources Department. If the major discipline is on the Tribal Administrator or Human Resources Director, the supervisor shall approve the action but with a review of the process shall be done by the Tribe's Legal Counsel to ensure compliance with this policy.

### **Section B. Termination of Employment and Rehire**

#### **1. Voluntary Resignation**

- a) Voluntary resignation occurs when an employee notifies his or her supervisor of intent to resign, or it is apparent that the employee has no intent to return for continued employment, or the employee has abandoned the job by failing to report for work for three consecutive days without any notification to his or her supervisor.

- b) Exempt employees are requested to provide 30 calendar days written advance notice of resignation. All other employees are requested to provide 2 weeks' written advance notice.
- c) A notification to resign must be forwarded to the Human Resource Department immediately.
- d) All travel to, and attendance at, training sessions, conferences or participation in similar meetings will be canceled or reassigned upon notification of an employee's intent to terminate his or her employment with the Tribe. An exception to this may be made by FBC if such proposed participation serves the best interest of the Tribe.

## **2. Involuntary Termination**

- a) All Seasonal/Temporary or Emergency Appointment employees, or an employee on probationary status may be terminated at any time with or without cause and with or without advance notice.
- b) All other employees (not listed in 2.a) above) may be terminated for cause and will be provided as much advance notice as possible.
- c) All involuntary terminations relating to disciplinary actions must be approved in writing as provided in the Major Discipline process in Part IX, Section A, above.. The supervisor/ shall present the reason(s) for termination to the Director (if different), Tribal Administrator and Human Resources Director, including any documentation supporting the proposed termination. The documentation should include:
  - 1) The reason for the proposed termination, including any policy or procedure that was violated;
  - 2) Evidence of any past disciplinary actions against the employee; or
  - 3) Evidence of attempts to improve employee performance or other attempts to rectify the employee's poor performance or violations for policy or procedure;A draft letter notifying the employee of the proposed termination.
- d) All involuntary terminations relating to a reduction-in-force (layoff) must be approved in writing by the Director and Tribal Administrator and reviewed by the Human Resources Director. Documentation should include:
  - 1) The reason for the reduction-in-force (layoff);
  - 2) A listing of the affected positions and employees impacted by the reduction-in-force (layoff);
  - 3) Information regarding the factors used in determining a layoff, alternatives that were considered, and how the employee was identified for layoff (performance, seniority, abilities, discipline); and
  - 4) A draft letter notifying the employee(s) of the proposed reduction-in-force.

- e) If an involuntary termination request is approved, the Human Resource Department will immediately process the Personnel Action Form and forward necessary termination papers to the Finance Department and Tribal Administrator.
- f) The Human Resources Director will immediately provide a copy of the Personnel Action Form documenting the decision to terminate to the Director/Supervisor.

### **3. Reduction in Force (Layoff)**

- a) A reduction-in-force (layoff) from employment may occur due to a reorganization, downsizing, lack of funds, and/or a grant/contract ending; and will be executed with as much advance notice to the employee as possible, but with a minimum of five (5) days.
- b) Employment applications of laid off employees will be placed in the active applications file for re-employment if requested by the employee.

### **4. Exit Interviews**

- a) All persons who leave employment with the Tribe shall have an exit interview with their immediate supervisor or Human Resources, if possible, and depending on the nature of the termination of employment.
- b) The interview shall contain reasons for resignation; status of work completed and assignments pending; return of tribal property.
- c) The supervisor or Human Resources shall document, as accurately as possible, the contents of the exit interview and forward this documentation to be placed in the Employee's personnel file.

### **5. Termination Procedures**

#### **a) Guidelines for Involuntary Terminations**

- 1) The Human Resources Department and the supervisor shall inform the employee of the termination, in a private meeting if possible. The Tribe may request the presence of law enforcement to maintain the peace or in volatile situations.
- 2) Immediately disable the terminated employee's network access and retrieve any keys, access cards, IDs, or other physical access devices.
- 3) Perform an exit interview (if possible, depending on the circumstances).
- 4) Arrange for the return of any off-site equipment that the ex-employee may possess, such as laptops/notebooks, documentation, cell phones, PDAs, etc.
- 5) Notify the employee that their final paycheck, including payments for any payable leave benefit, will be mailed to them, unless the terminated employee makes other arrangements with the Finance Department.

- 6) Human Resources should also discuss the cessation or transfer of benefits (health insurance, life insurance, retirement, etc.) with the employee, as well as other possible benefits (i.e., COBRA, unemployment, etc.) depending on the circumstances involved with the involuntary termination.
- 7) Escort the ex-employee off the premises.
- 8) Arrange to return any personal property of the ex-employee from their work environment. This should include a review of any removable media and documentation for proprietary or confidential data belonging to the Tribe.
- 9) It is recommended in situations where an involuntarily terminated employee had keys or passwords to access buildings, equipment, computers, etc. that the departments/program immediately take any other action to prevent the terminated employee access to these items.

**b) Guidelines for Reduction-in-Force (Layoffs)**

- 1) A Human Resources Department official and the supervisor shall inform the employee of the reduction-in-force, in a private meeting if possible. The Tribe may request the presence of law enforcement to maintain the peace or in volatile situations.
- 2) If the supervisor feels that the continued presence of the employee will cause any negative issues, the employee may be placed on administrative leave with pay for the duration of the stated notice period with the approval of the Director and Tribal Administrator. The supervisor shall then follow the steps outlined, above, for Involuntary Terminations.
- 3) If the supervisor feels that the continued on-site presence of the employee will be beneficial to the department, the employee will continue to work as normal and the steps, below, for Voluntary Terminations shall be followed.
- 4) Perform an exit interview.

**c) Guidelines for Voluntary Resignations:**

- 1) A Personnel Action Form, along with a copy of the resignation letter, shall be provided to the Finance Department within two working days after the employee submits his or her notice. This will allow the Finance Department to have adequate time to prepare for final paychecks, correcting process of any leave payments, and to enter the information into the financial software systems.
- 2) Any employee who has submitted his or her resignation will be expected to continue to meet their assigned work schedule and perform all assigned duties during their period of notice. However, this requirement may be waived by the Director/Supervisor and the Human Resources Director if it is in the best interests of all involved parties.

- 3) Perform an exit interview.

## 6. Payment of Final Wages

- a) If an employee is laid off, discharged, fired, or otherwise involuntarily separated from employment, the final pay is due immediately if possible but no later than 5 working days of discharge.
- b) If the employee quits, retires, resigns, or otherwise leaves employment voluntarily, the final pay is due on the regularly-scheduled payday following the effective date of resignation.
- c) Employees who are issued equipment during their employment are expected to take proper care of the equipment. Employees will be charged reasonable replacement costs for equipment which is lost, stolen, damaged or not returned to the Tribe in proper condition upon termination from employment.
- d) All tools, materials, goods, keys, and any other items belonging to the Tribe shall be returned in proper condition in order for the employee to receive his or her final paycheck. Failure to return any items belonging to the Tribe, or failure to return the items in proper condition may result in legal action.
- e) All outstanding financial obligations, including salary or travel advances issued to the employee, must be satisfactorily resolved before the employee will receive his or her final paycheck.

## 7. Rehire

The rehire of former employees will be at the sole discretion of the Tribe. It is the practice of the Tribe to thoroughly review all applications for employment with the Tribe to determine if an employee is eligible for rehire. The following steps will be taken when reviewing job applications for individuals who have previously worked for the Tribe:

- a) Applicants who have previously worked for the Tribe must state that on the Tribe's employment application and in detail the circumstances of the end of that employment including whether the termination was voluntary or not. Human Resources shall review applications from former employees to determine if their past performance/behavior warrants rehiring.
- b) Human Resources will review applicant's work history with the Tribe. All such information must be identified and brought to the attention of the interview panel and the position supervisor.
- c) The interview panel will have the above information of the applicant's work history with the Tribe available during the interview process. The panel may ask questions of the applicant related to this information during the interview. The panel will then determine whether the applicant will be considered or not based upon its review of the above. Unsubstantiated information (rumor and gossip) will not be considered by the panel.

## **8. Rehire Restrictions**

The following individuals are not eligible for re-employment with the Tribe for a specified time period:

- a) Employees terminated for felony convictions that are related to job performance and/or job requirements are ineligible for rehire for 7 years from the end of employment.
- b) Employees terminated for theft, assault, fighting, intentional falsification of official records, gross negligence or gross insubordination are not eligible for rehire for 2 years from the end of employment.
- c) Employees terminated for violation of the Drug and Alcohol provisions of the Employment Handbook are not eligible for rehire for 12 months from the end of employment.

Additional bases for not rehiring may be added by FBC on a case-by-case basis. All rehires will have to adhere to the requirements set forth in the Tribe's Background Investigation Policies and Procedures.

## **9. References**

Employment references are not provided by the Tribe. The Human Resources Department will respond to employment reference inquiries by providing dates of employment, job title(s) and last rate of pay. In the discretion of the appropriate Director/Supervisor, a letter of recommendation may be provided.

## **Section C. Grievance Procedure**

Employees who have passed the probationary period may file a grievance to challenge certain formal discipline or termination. Probationary, Seasonal/Temporary, and Emergency employees have no grievance rights. The grievance rules set forth below are strictly construed in favor of the Tribe. If a grievant fails to comply with the grievance rules below, the grievance shall be dismissed.

### **1. Grievance to Tribal Administrator**

Only formal discipline for Minor and/or Major Discipline may be grieved to the Tribal Administrator. A decision not to hire or promote may not be grieved.

The employee subject to the discipline shall present the written grievance to the Tribal Administrator within seven working days of the date the discipline was communicated in writing to the employee. The written grievance must set forth in detail the reasons the grievant challenges the discipline, include any evidence that the employee wishes to be considered, and state the relief requested.

The grievance will be considered and a written response shall be given to the employee by the Tribal Administrator, who shall determine if there was cause for the discipline. No hearing is required, although the Tribal Administrator, in his or her discretion, may allow the grievant to make a presentation, hear from other involved parties including management, or consider any other evidence the Tribal Administrator deems relevant.

The Tribal Administrator shall respond to the grievance as expeditiously as possible, but in no event longer than 15 working days after the grievance is submitted. If the Tribal Administrator decides to grant all or part of the relief sought by the employee, the Tribe will implement that decision.

No advocate or attorney may represent the grievant in any grievance proceedings before the Tribal Administrator. The decision of the Tribal Administrator shall be final with no appeal rights.

If the challenged discipline was issued by the Tribal Administrator, the same grievance procedures apply except the Tribal Administrator's immediate supervisor will address the grievance in place of the Tribal Administrator.

## **2. Grievance to Fallon Business Council**

Any employment involuntary termination may be grieved to FBC. The decision of FBC is final with no appeal rights.

The terminated employee shall present a written grievance to the FBC Secretary within 7 working days of the date the termination was communicated in writing to the employee. The written grievance must set forth in detail the reasons the grievant challenges the termination and state the relief requested. The FBC Secretary will distribute the written grievance to all FBC members.

A Special FBC meeting to consider the grievance will occur within 30 calendar days of submission of the written grievance before a quorum of FBC.

The FBC Secretary will provide a notice of the grievance to management and the grievant at least 10 working days before the hearing, in substantially the form of Appendix N, which states: the date and time of the hearing; that failure of the grievant to appear may result in dismissal; the hearing is closed to the public; that the grievant is not entitled to have an attorney or other advocate present; the scope and question presented at the hearing; and that any physical evidence to be considered at the hearing must be delivered three (3) working days before the hearing to the FBC Secretary.

Unless directly involved in the termination being challenged, the FBC Chairman shall chair the hearing and follow the rules in this Section C. In the event a procedural question is not addressed by this Section C, the FBC shall decide how to proceed on the procedural question.

Any FBC member directly involved in the termination being challenged by the grievant shall not participate in or attend any of the grievance proceedings or grievance decision except to present management's position or as a witness, if applicable. If the grievance is brought by an Immediate Family Member of a member of the FBC or there is a conflict of interest involving the FBC, that FBC member may not participate in or attend any of the grievance proceedings. However, an FBC member may attend a proceeding if necessary to establish/maintain a quorum but the FBC member shall not participate in any discussions or make a decision in that matter.

If the Chairman was involved in the termination being challenged or the grievance involves an Immediate Family Member, the Vice Chairman shall chair the hearing. If the challenged termination is based on an action of FBC as a whole, such as a budgetary decision, FBC members may participate in the grievance proceedings and decision.

### **3. Hearing Protocol.**

Grievance hearings with the FBC shall proceed as follows.

- a) The FBC will convene in executive session to review and consider any evidence submitted by the grievant or management with no other individuals present.
- b) Next, the Chair will invite the grievant, Director/Supervisor, Tribal Administrator, and Human Resources into the hearing and explain the order of presentation set forth in Step c below and the decision-making process, including the burden of proof, described in Steps d and e below.
- c) Next, the parties will present their position as follows:
  - 1) Grievant case in chief up to 30 minutes;
  - 2) Management case in chief up to 30 minutes;
  - 3) Grievant rebuttal up to 10 minutes;
  - 4) Management rebuttal up to 10 minutes.

The scope of subject matter allowed to be presented on rebuttal is limited to topics covered during an opponent's case in chief.

Past misconduct of the grievant may be presented only if it is alleged to be part of the basis for termination and was identified in the Major Discipline and/or Termination paperwork.

The Chair retains the right to limit the duration of any presentation not pertinent to the grievance.

In the Chair's discretion, witnesses may be allowed during the schedule set forth above. Each party is responsible for arranging attendance of their own witnesses. Each side will be given the opportunity to question any witness that is allowed. Witnesses must remain out of the hearing area until called to testify.

If the grievant does not appear at the scheduled time and date for the hearing, the grievance shall be dismissed unless FBC determines that the failure to appear is well-justified.

The FBC reserves the right to change or adjust this section.

- d) Next, FBC will meet without the grievant, management or others present to decide whether the challenged termination was justified (either for cause or budgetary reasons) and, if not justified, what relief to grant.



Grievant has the burden to show by a preponderance of the evidence that the termination was not justified. FBC is not to decide whether they would have terminated grievant, but should decide whether the termination decision is a reasonable application of tribal policies to the circumstances of the termination.

In the event FBC determines the termination was justified, the termination shall be upheld and the grievant will not be entitled to any relief.

In the event FBC determines that the termination was not justified, the only relief that may be granted by FBC is one or more of the following:

- 1) Reinstatement to the position from which the grievant was terminated;
- 2) Back pay for the value of wages and health care premiums and benefits lost by the grievant during the time period grievant did not receive such sums due to the termination in question, less any unemployment or employment-related compensation (i.e., income from a different employer) received by the grievant during that time period;
  - i. Before the grievant is paid as provided in this paragraph, the grievant must certify in writing whether the grievant has received unemployment or employment-related compensation and attach any proof of such payment such as pay stubs.
- 1) A form of discipline for the circumstances that led to the termination;
- 2) Reassignment to another position of equal pay, if a position within the Tribe is available, and only if the grievant is qualified for such position; and
- 3) Performance probation.
  - i. An employee may be placed on performance probation for a set period of time, not to exceed six (6) months, that is sufficient to allow the employee time to improve performance. At the end of that time, another written evaluation should be done by the immediate supervisor and if that performance continues to be below competent, further appropriate action may be taken.
  - ii. During this performance probationary period, the employee may be terminated without cause and without warning. Directors/Supervisors shall strive to document poor performance, attendance or behavior during the probationary period and review with the employee areas for improvement and shall provide at least one verbal warning which is documented and reviewed with the employee.
  - iii. Employees on performance probation are entitled to the same benefits enjoyed prior to the performance probation.
- e) Within 7 days of the close of the hearing, a written decision of FBC will be certified-mailed or hand-delivered, with proof of service, to the grievant that states whether the termination was justified or not, and what relief will be granted, if any. In some situations, the Human Resources Department may schedule a meeting with the grievant to go over the decision of the FBC.

## Employee Acknowledgment

### Receipt of and Understanding of Employment Handbook

By signing below, I acknowledge:

- I have received a copy of the Fallon Paiute-Shoshone Tribe Employment Handbook and understand that it sets forth terms and conditions of my employment
- This Employment Handbook and Employee Acknowledgement do not constitute an employment contract between the Fallon Paiute-Shoshone Tribe and me, as employee;
- it is my responsibility to read and abide by the rules, policies and standards set forth in the Employment Handbook;
- I understand that my employment is terminable at will, either by myself or the Tribe, regardless of the length of my employment or the granting of benefits of any kind. I further understand that no contract of employment other than "at will" has been expressed or implied, and that no circumstances arising out of my employment will alter my "at will" employment relationship unless expressed in writing, with the understanding specially set forth and signed by myself and the Chairperson of the Fallon Paiute-Shoshone Tribe, with final approval from the Fallon Business Council;
- without limiting the foregoing, I specifically acknowledge the terms and conditions of Part III, Sections A and B regarding confidentiality, and Part II, Section F regarding Background Investigations, and Part VII regarding Drug Testing, and in the event, I am hired before completion of the background investigation or drug and alcohol test I understand that my employment is conditioned on the results of that investigation and/or test being acceptable;
- I understand that the Fallon Paiute-Shoshone Tribe is a Drug Free workplace and there is a zero-tolerance policy. The use of controlled substances, including illegal drugs and alcohol, while performing employment duties is unacceptable and will result in termination;
- my employment with the Tribe is in accordance with these and other policies of the Tribe as they currently exist or as amended in the future;
- this Handbook does not constitute a contract or create contractual rights or constitute an express or implied waiver of the Tribe's sovereign immunity;
- the policies and procedures in this Handbook may be changed by the Tribe with or without notice;
- I understand that should the content of the Employment Handbook be changed in any way, the tribal government may require an additional signature from me to indicate that I am aware of and understand any new policies.
- no oral or written statements or representations regarding my employment can alter the foregoing.

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PRINT Employee Name

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Employee Signature

---

Date

FALLON PAIUTE-SHOSHONE TRIBE  
**EMPLOYMENT HANDBOOK**  
Personnel Policies



# APPENDICES

Appendix A .....	Job Description Creation/Revision Form
Appendix B .....	Personnel Requisition Form
Appendix C .....	Employment Verification/Reference Check
Appendix D .....	Candidate Interview Evaluation Form
Appendix E .....	Performance Improvement Plan
Appendix F .....	Employee Confidentiality Agreement
Appendix G .....	Mobile Device Usage and Regulations
Appendix H .....	Employee Vehicle Use Agreement
Appendix I .....	Incident Report Form
Appendix J .....	Reasonable Suspicion Report
Appendix K .....	Continued Employment Plan
Appendix L .....	Employee Whistleblower Report
Appendix M .....	Progressive Discipline Report
Appendix N .....	Notice of Grievance Hearing



## FALLON PAIUTE-SHOSHONE TRIBE

## JOB DESCRIPTION CREATION/REVISION FORM

This form facilitates the review process to create new or update existing job descriptions and details the need for a new job description and/or why changes are necessary. Updates to a salary grade requires the completion of the comparability section. An incomplete form may delay the review and approval.

## REQUESTING DEPARTMENT/PROGRAM

Department/Program: \_\_\_\_\_

Contact Person & Title: \_\_\_\_\_

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

## TYPE OF ACTION BEING PROPOSED

- ☐ Approve New Job Description. Creation of new tribal job description to meet a need or obligation that cannot be done within the constraints of any other current approved position.
- ☐ Update/Revise Job Description. Changes to existing job description that modify items such as description, duties, responsibilities, qualifications, etc., or revising the job title, supervisor, and/or department assigned.
- Date Job Description Last Updated (if known): \_\_\_\_\_
- ☐ Job Description Salary Reclassification. Requesting a change to a pay grade to make position compatible with the local job market.
- Date Job Description Last Updated (if known): \_\_\_\_\_

## DESCRIPTION OF UPDATES

**Required:** Attach new description or current description with redline corrections

POSITION TITLE: \_\_\_\_\_

If title change, what is the original position title: \_\_\_\_\_

- Reason: ☐ New Position to meet needs\* ☐ Change GS Pay Grade based on Comparability\*
- ☐ Outdated Duties/Responsibilities ☐ Updating Position Qualifications/Requirements
- ☐ Other (explain): \_\_\_\_\_

\* For new job description or grade changes, complete the salary comparability analysis on next page.

Justification: Explain you need for the above action, including reasons for a new position, title changes, and how the salary was determined. Please be specific.

## SALARY COMPARABILITY ANALYSIS

**NOTE:** Please include copies of all reference materials used for salary comparison or in the development of the job description.

Salary Comparability Source Information and other Reference Materials	Starting Rate	<u>OR</u>	Average Rate
Source:			
Source:			
Source:			
Source:			
Source:			
Source:			
Source:			
Source:			
Source:			
<b>AVERAGE SALARY RATE FROM ABOVE SOURCES:</b> <b>(FOR CURRENT POSITIONS)</b> List starting/average of current FPST grade:		STARTING	AVERAGE

☐ **New Position Pay Rate Establishment:** Proposed: GS - \_\_ ..... Step 1 (\$\_\_\_\_/per hour)  
 Mean/Average (proposed):..... (\$\_\_\_\_/per hour)

☐ **Current Position Pay Rate Change:** Current: GS - \_\_ ..... Step 1 (\$\_\_\_\_/per hour)  
 Mean/Average (current)..... (\$\_\_\_\_/per hour)

Proposed: GS - \_\_ ..... Step 1 (\$\_\_\_\_/per hour)  
 Mean/Average (proposed)..... (\$\_\_\_\_/per hour)

## APPROVAL Process: Department Submittal ► HR Review ► Administrator Review ► FBC Approval

Director/Supervisor Approval: \_\_\_\_\_ Date: \_\_\_\_\_



## FALLON PAIUTE-SHOSHONE TRIBE PERSONNEL REQUISITION FORM

This is a mandatory form for use by Directors/Supervisors when they need to advertise for positions for current and/or upcoming vacancies within their Program. Please complete and submit to the Human Resources Department. **This form is active until the position is filled.**

Job Title: \_\_\_\_\_

Program: \_\_\_\_\_  
(Department and Regular Worksite)

Supervisor(s): \_\_\_\_\_

Pay Grade: _____	Salary Range: _____	Funding Code: _____	@ _____ %
			@ _____ %
			@ _____ %

### Working Hours Designation

- ☐ Full-Time (# of hours a week: \_\_\_\_\_)  
(more than 30 hours a week)
- ☐ Part-Time (# of hours a week: \_\_\_\_\_)  
(less than 30 hours a week)

### Salary Information

- ☐ Non-Exempt
- ☐ Exempt

### Employment Status

- ☐ Regular Status
- ☐ Seasonal/Temporary
- ☐ Volunteer
- ☐ Intern, Student, Resident
- ☐ Emergency Appointment

### Posting Time Status

- ☐ Standard (10 working days)
- ☐ Enhanced (30 days)
- ☐ Open Until Filled

**Vacancy:** ☐ Yes ☐ No **If yes, person replaced:** \_\_\_\_\_

**New Position:** ☐ Yes ☐ No

\_\_\_\_\_  
Signature of Department Director or Manager

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

### FPST Human Resources Use Only

Date Posted: \_\_\_\_\_

Human Resources Initials: \_\_\_\_\_

Closing Date: \_\_\_\_\_

Comptroller Initials: \_\_\_\_\_



## FALLON PAIUTE-SHOSHONE TRIBE

**EMPLOYMENT VERIFICATION/REFERENCE CHECK**

Human Resources shall attempt to verify a candidate's most recent 5-year work history (by telephone or mail) prior to the interview process. Do not conduct this check without a completed and signed Application for Employment form from the individual confirming you may contact current and/or prior employers.

Name of Candidate: \_\_\_\_\_ Position Applied for: \_\_\_\_\_

**Section A. Employment History and Reference Check** (make a copy if more than one reference required)

Contact Name/Title: \_\_\_\_\_ ☐ Supervisor ☐ HR Rep. ☐ Other

Organization Name: \_\_\_\_\_ Contact Date: \_\_\_\_\_

Candidate Job Title: \_\_\_\_\_ Work Dates: \_\_\_\_\_

Reason for Leaving: \_\_\_\_\_ Last Pay Rate: \_\_\_\_\_

*Document responses below – if additional space is needed use the "Additional Comments" section on the next page*

Briefly describe the duties and responsibilities the candidate is/was responsible for.

What do you believe are the candidate's strengths and skills?

Ability to work well with coworkers, subordinates (if applicable), supervisors/management?

If in a supervisory/management role, how would you characterize their supervisory/management skills?

Any behavioral or performance issues or any areas of development needed? If yes, what are they?

Is there any other pertinent performance information about this candidate that we should consider?

Attendance, punctuality, and reliability?

Discretion, judgment, decision-making, problem solving?

Would you rehire this candidate into your organization? ☐ No ☐ Yes

**Section B. Degree, License, or Certification Verification** (optional if these items are not required for the job)

Degree, License, Certification: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Name of School/Org/Entity: \_\_\_\_\_ Date Verified: \_\_\_\_\_

Is license or certification still in good standing? ☐ No ☐ Yes

Degree, License, Certification: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Name of School/Org/Entity: \_\_\_\_\_ Date Verified: \_\_\_\_\_

Is license or certification still in good standing? ☐ No ☐ Yes

**Section C. FPST Personnel File Review** (optional if applicant hasn't worked for Tribe in the past five years)

Commendations, Recognitions, Awards: ☐ No ☐ Yes If yes, indicate types and dates

Disciplinary, Adverse, Dismissal Actions: ☐ No ☐ Yes If yes, indicate types and dates

**Section D. Additional Comments** (additional responses to questions or other pertinent employment information)

Verification done  
by (name/title): \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_





## FALLON PAIUTE-SHOSHONE TRIBE

## CANDIDATE INTERVIEW EVALUATION FORM

This form is to be completed by an interviewer to rank a candidate's overall qualifications for a position to which they have applied. Interviewers should give candidate a numerical rating and include any specific job-related comments in the space provided (if applicable).

Candidate: \_\_\_\_\_

Position: \_\_\_\_\_

Interviewer: \_\_\_\_\_

Date: \_\_\_\_\_

**Rating System Explanation:**

- 1 ..... **Below Satisfactory** ..... Candidate either shows weak/irrelevant qualifications or is overqualified  
 2 ..... **Satisfactory** ..... Candidate may qualify for the position if given training  
 3 ..... **Average** ..... Candidate who falls within the average range of successful candidates  
 4 ..... **Excellent** ..... Candidate is definitely above the average applicant  
 5 ..... **Outstanding** ..... Exceptional Candidate

**EVALUATION CRITERIA** (circle one for each area):

1. <b>Educational Background</b> - Does the candidate have the appropriate educational qualifications or training for this position?	1	2	3	4	5
2. <b>Prior Work Experience</b> - Has the candidate acquired similar skills or qualifications through past work experiences?	1	2	3	4	5
3. <b>Technical Qualifications/Experience</b> - Does the candidate have the technical skills necessary for this position?	1	2	3	4	5
4. <b>Verbal Communication</b> - How were the candidate's communication skills during the interview?	1	2	3	4	5
5. <b>Candidate Enthusiasm</b> - How much interest did the candidate show in the position and the organization?	1	2	3	4	5
6. <b>Knowledge of Tribe and/or Department</b> - Did the candidate research the department/program/Tribe prior to the interview?	1	2	3	4	5
7. <b>Team Building/Interpersonal Skills</b> - Did the candidate demonstrate, through their answers, good teambuilding/interpersonal skills?	1	2	3	4	5
8. <b>Initiative &amp; Independence</b> - Did the candidate demonstrate, through their answers, initiative and ability to function with extensive oversight?	1	2	3	4	5
9. <b>Time Management</b> - Did the candidate demonstrate, through their answers, good time management skills?	1	2	3	4	5
10. <b>Overall Impression and Recommendation</b> - Do you think the candidate would be a good fit for the position and the Tribe?	1	2	3	4	5

**Native American Preference** - Circle 10 for FPST tribal Members OR 5 for other federally recognized tribal Members

Other  
5      FPST  
10

**Veteran's Preference** - Circle 5 for individuals who are discharged have an honorable or general discharge from the Armed Forces of the U.S.

Vet.  
5

**TOTAL SCORE** (maximum of 65) \_\_\_\_\_



## FALLON PAIUTE-SHOSHONE TRIBE

## PERFORMANCE IMPROVEMENT PLAN

The Performance Improvement Plan (PIP) is a performance document which identifies performance areas in which the employee needs improvement in order to successfully complete an extended probation period. This form identifies area of concern, supporting evidence, what the employee must do to show improvement, any support that may be required, and an identification of any training/education requirements that may be necessary.

Name of Employee: \_\_\_\_\_

Job Title: \_\_\_\_\_

Probation extended for: ☐ 30 days ☐ 60 days ☐ 90 days

Extended Probation End Date: \_\_\_\_\_

**PIP Areas** (list each of the areas that an employee is having difficulty and how to address the issue)

Areas of Difficulty	Evidence	Improvement Required	Support Required

**Training/Continuing Education to be completed during Extended Probation Period:**

Name of Training, Course, Seminar, CEU, etc.	Identified Trainer/Facilitator (if known)	Date to be Completed by

Employee Signature \_\_\_\_\_ Date \_\_\_\_\_

Supervisor Signature \_\_\_\_\_ Date \_\_\_\_\_

**Employee Comments:**

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## FALLON PAIUTE-SHOSHONE TRIBE EMPLOYEE CONFIDENTIALITY AGREEMENT

This form is designed to explain the legal provisions that are applicable to individuals when they accept employment with the Tribe to ensure the security and privacy of any confidential information seen, heard, or that an employee may otherwise come to know during the course of their employment with the Tribe

Confidentiality is a serious obligation which applies to all tribal employees. The Fallon Paiute-Shoshone Tribe ("Tribe") expects that all employees will respect the privacy of individuals and entities about whom confidential information has been received by the Tribe or its employees. As a condition of employment and continued employment with the Tribe, I hereby understand and agree that:

1. I may come into contact with information from the Tribe that is deemed confidential by tribal laws, administrative rules, state laws, and/or federal laws and regulations. Confidential information may be electronic or paper and includes, but is not limited to: names, addresses, social security numbers, enrollment number, employee's wages or hours, employer information, financial information, personally identifiable information, protected health information, or any other confidential and/or sensitive information regarding individuals or entities.
2. As a part of my job, I may have or acquire access to confidential information to assist me in carrying out my duties. I may not use confidential information for any purposes except as directly associated with the scope of my employment.
3. I may not use any electronic or paper systems, networks, databases, etc. to access confidential information on: (a) myself, my friends, my relatives, or my co-workers; (b) for personnel purposes, or (c) any other person unless the purpose is directly associated with my scope of my employment.
4. I understand that I may see, hear, or otherwise come to know confidential information during the course of my employment or during my presence in tribal facilities, and that it may not always be obvious to me whether any particular information is confidential or must be protected for some reason. Therefore, I agree that unless specifically authorized in writing from the supervisor, I:
  - a. Will treat all information that I see, hear, or otherwise come to know in the course of my employment as confidential.
  - b. Will not copy, record, divulge, publish, or otherwise make known to any unauthorized third party, orally, in writing, or by electronic or other means, any information that I see, hear, or otherwise come to know in the course of my employment.
  - c. Will not make unauthorized use, for my benefit or the benefit of another, of any information that I see, hear, or otherwise come to know in the course of my employment
  - d. Will discuss confidential and personal information only when necessary and when dealing with other individual authorized to have access to confidential information.
5. I will not disclose my user identification and/or password to other employees or allow others to access the Tribe's software and computer system or share may access to tribal facilities or buildings without proper authorization.
6. That tribal records contain information from other government agencies or other protected sources. Wrongful disclosure of that information may lead to civil and criminal penalties.
7. I may be given access to records or information that is deemed private and confidential by applicable tribal, federal, and/or state laws. I may not make any unauthorized disclosure of private or confidential information about employers, clients, patients, claimants, participants, or employees to any person or entity.

8. A violation of this Employee Confidentiality Agreement may subject me to disciplinary action, up to and including termination, and may subject me to a civil action for damages and other penalties.
9. That the Fallon Tribal Court shall have exclusive jurisdiction for any matters arising under this Agreement, and hereby consent to the jurisdiction of that Court.
10. I understand that the foregoing requirements do not cease at such time as I am no longer employed by the Tribe. I agree to be permanently bound by the terms of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, this Agreement shall not prohibit me from disclosing certain confidential information to the extent required to comply with applicable laws, provided that I provide prior written notice of such disclosure to the Tribe and take reasonable and lawful actions to avoid and/or minimize the extent of such disclosure.
11. I understand that maintenance of confidentiality is one of the most important elements of employment with the Tribe, and violation of confidentiality may be grounds for the imposition of discipline, possibly to include termination, plus applicable civil and/or criminal penalties and fines.

I understand and agree to the terms of this Employee Confidentiality Agreement and that I may have to annually review this statement. I will be given a copy of this form and an original placed in my personnel file.

---

Signature of Employee

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Date

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Printed Name of Employee



## FALLON PAIUTE-SHOSHONE TRIBE

# MOBILE DEVICE USAGE AND REGULATIONS

This form is designed to provide regulations regarding the issuance and use of cell phone (mobile device) assigned to an employee. Employee must carefully review these regulations and are required to sign and acknowledge their understanding prior to issuance of a mobile device.

This document sets forth the Tribe's rules and regulations regarding tribal-issued mobile devices. For purpose of this form, the term "mobile device" is defined as any handheld electronic device with the ability to receive and/or transmit voice, text, or data messages without a cable connection, including, but not limited to, cellular telephones, digital wireless phones, radio-phones/walkie-talkies, tablets, or other wireless devices.

- Tribal mobile devices are provided for business use therefore personal use is to be kept to a minimum.
- Tribal mobile devices are to be protected and used only by the employee, and returned when their employment ends with the Tribe.
- Do not load personal accounts on the devices (Apple ID, Google, etc.). If you need an account to be able to download a needed app, please contact the IT Dept and they can assist in setting one up.
- Do not have anyone other than the Tribe's IT department work on or do a reset on the mobile device if it is needed.
- All mobile devices will have a 4-digit PIN code as a Security precaution in the event that a phone is lost. The code for the phone is set by the IT Dept. and may not be changed. This requirement is to prevent anyone, other than the assigned user, access to possible confidential tribal information. Facial Recognition or Finger Print security options to secure phones are NOT to be used.
- The use of mobile devices while driving without a hands-free setup is prohibited, either when the phones are tribal-issued and/or when the vehicle is issued by the Tribe.
- Employees are to immediately inform the Tribe's IT Department when their tribal-issued mobile device is lost, so that the phone's service can be suspended until it is either found or replaced. The IT Department may also be required to perform a remote wipe of the phone to prevent any confidential information from being accessed by unauthorized people.
- Viewing, sending or saving offensive material is prohibited. Offensive material includes, but is not limited to pornography/sexually explicit materials, sexual comments, jokes or images, racial slurs, gender specific comments or any comments, jokes or images that would offend someone on the basis of their race, color, religion, sex, age, national origin or ancestry, physical or mental disability, veteran status, as well as any other category protected by tribal or federal laws.

I hereby acknowledge the rules and regulations established for my usage of FPST issued mobile device. I also acknowledge that the Tribe reserves the right to view, either directly or remotely, any information, texts, emails, etc., that may be on my tribal-issued mobile device and that there are no privacy expectations for the device. I am aware that I am subject to disciplinary action in accordance with the FPST Employment Handbook for any violations.

\_\_\_\_\_  
Name of Employee (print)

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Issuing Agent

\_\_\_\_\_  
Date



## FALLON PAIUTE-SHOSHONE TRIBE

## EMPLOYEE VEHICLE USE AGREEMENT

This agreement must be completed by a tribal employee who will be driving either a tribal vehicle or their personal vehicle while conducting tribal business. This form must be updated annually for an employee and should be turned in along with the annual driving history report.

In order to operate a motor vehicle as part of your employment with the Fallon Paiute-Shoshone Tribe ("Tribe"), including both your personal vehicle for conducting tribal business and/or a vehicle owned/leased by the Tribe, please provide your initials next to each of the items below and sign the form below.

- \_\_\_\_\_ I have read, understand and agree to abide by the conditions and rules as stated in Tribe's Employment Handbook regarding vehicle use.
- \_\_\_\_\_ I hereby acknowledge and understand that if I am required to operate a personal motor vehicle to conduct tribal business and/or drive a tribally-owned/leased vehicle, then I am required to possess and maintain a valid driver's license.
- \_\_\_\_\_ I hereby acknowledge that if driving a personal vehicle while conducting tribal business, I must also possess and maintain valid insurance for that vehicle and that the Tribe is not responsible for pay for any insurance premiums, tickets/fines, fuel/maintenance costs, accident deductibles, or costs associated with the person use of my vehicle except if provided otherwise in tribal laws or policies. I also cannot receive mileage reimbursement for travel within Churchill County, Nevada.
- \_\_\_\_\_ I agree that as an operator of a tribally-owned/leased vehicle or as an employee required to operate a personal vehicle for tribal business, that I am prohibited from operating when my driving ability has been impaired for any reason.

**Please complete the below if you will be driving a tribally-owned/leased vehicle:**

- \_\_\_\_\_ I hereby certify and affirm that I have a valid driver's license. I understand that the Tribe may conduct inquiries at its discretion regarding my driving record. I also understand that if driving is a requirement of my position and I lose my driver's license, then my employment with the Tribe may be terminated.
- \_\_\_\_\_ I acknowledge and understand that as an operator of a tribally-owned/leased vehicle that I may not permit other individuals, such as family members and friends, to drive or ride in the vehicle issued to me or to use the official vehicle for any personal use.
- \_\_\_\_\_ I agree to notify my supervisor or department head immediately if there has been an accident or if I receive a ticket or citation that affects and/or restricts my right to operate a motor vehicle. I will immediately notify my supervisor or department head if I have received a citation or other infraction related to impaired driving or operating under the influence of drugs, alcohol, or other cause of impairment. I will also immediately notify my supervisor if my driver's license has been suspended or revoked for any reason or if involved in an accident in a tribally-owned/leased vehicle. I am also personally responsible for costs for tickets and/or citations I receive.

I understand that any violations of the Tribe's Employment Handbook regarding vehicle use Policy and/or the items specified above may result in my vehicle use privileges being suspended or revoked, disciplinary action(s) up to and including termination of employment, and/or legal action(s) being taken.

\_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Employee



## FALLON PAIUTE-SHOSHONE TRIBE INCIDENT REPORT FORM

Employees shall use this form to report all work-related injuries, illnesses, “near miss” events (which could have caused an injury or accident), or other situations – no matter how minor or incidental. This form shall be completed by employees as soon as possible and given to a supervisor for further action.

Employee: \_\_\_\_\_ Job Title: \_\_\_\_\_

Department: \_\_\_\_\_

### TYPE OF INCIDENT

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Illness (employee/public)       | <input type="checkbox"/> Injury (employee/public) | <input type="checkbox"/> Property Damage (tribal/private) |
| <input type="checkbox"/> Near Miss Incident              | <input type="checkbox"/> Theft of Tribal Property | <input type="checkbox"/> Threatening Behavior/Language    |
| <input type="checkbox"/> Vandalization (tribal property) | <input type="checkbox"/> Vehicle Accident         | <input type="checkbox"/> Other Incident (explain below)   |

Reported to Law Enforcement: ☐ No ☐ Yes Agency Name: \_\_\_\_\_

Case #: \_\_\_\_\_

### INVOLVED PERSON(S)

Name: \_\_\_\_\_ Phone No. \_\_\_\_\_

Address: \_\_\_\_\_ ☐ Employee ☐ General Public

Nature of Injury/Illness (if applicable): \_\_\_\_\_

### DAMAGE/LOSS (if applicable)

Year/Make/Model Color or Property Description \_\_\_\_\_

VIN/Serial Number, Asset Tag No. \_\_\_\_\_

Describe Damage: \_\_\_\_\_

### DETAILS OF THE INCIDENT

Date of Incident: \_\_\_\_\_ Time of Incident: \_\_\_\_\_

Date Reported: \_\_\_\_\_ Reported to: \_\_\_\_\_

Exact Location: \_\_\_\_\_

Describe how the incident occurred and what you were doing at the time:

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Were any safeguards or PPE being used (if yes, explain):

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**DETAILS OF THE INJURY/ILLNESS** (if applicable)

Nature of Injury/Illness (e.g., cut, burn, vomiting): \_\_\_\_\_

Cause of Injury/Illness (if known): \_\_\_\_\_

Location of Injury/Illness: \_\_\_\_\_

**TREATMENT ADMINISTERED** (if applicable)

If medical treatment or ambulance was required, state the name of provider or hospital transported to:

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Was any first-aid provided? If so, explain what measures were taken

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**WITNESSES TO INCIDENT** (if applicable)

Provide the names and phone numbers, if known for any witnesses to the incident:

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**POST-INCIDENT ANALYSIS**

What acts or conditions contributed most directly to the incident?

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How could the incident have been prevented:

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**SIGNATURES**

Employee's Signature \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor's Signature \_\_\_\_\_ Date: \_\_\_\_\_



## FALLON PAIUTE-SHOSHONE TRIBE

## REASONABLE SUSPICION REPORT

Behavior that provides reasonable suspicion supporting a test for controlled substances or alcohol use must be observed and documented by a supervisor. This report shall be prepared by the observing supervisor within 24 hours of the observed behavior or before the results of the tests are released, whichever is earlier.

Employee Name: \_\_\_\_\_ Time Period (date/time): from \_\_\_\_\_

Employee Title: \_\_\_\_\_ to \_\_\_\_\_

Location of Observed Behavior: \_\_\_\_\_  
(Street Address if known) City/State

## CAUSE FOR REASONABLE SUSPICION

**Note.** A Director/Supervisor must complete this form. A combination of one or more observable signs and symptoms of drug or alcohol use must be observed to establish reasonable suspicion. Determination of reasonable suspicion must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, body odors or speech of the employee. In making a determination of reasonable suspicion, additional factors may include, but are not limited to the following:

- Pattern of unsatisfactory job performance or work habits;
- Incidents of a serious or potentially serious work-related accident that may have been caused by human error or flagrant violations of safety, security, or other operating procedures;
- Evidence of substance use, possession, sale, or delivery while on duty and/or possession of drug paraphernalia;
- Information provided by either a reliable or credible source independently corroborated or having corroborative evidence from a supervisor.

## Physical Signs or Conditions

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Weariness, exhaustion                 | <input type="checkbox"/> Flushed face                  | <input type="checkbox"/> Yellow/gray skin complexion     |
| <input type="checkbox"/> Unusual cuts, bruises, rashes         | <input type="checkbox"/> Facial itching                | <input type="checkbox"/> Glassy/blood shot eyes          |
| <input type="checkbox"/> Dilated or constricted eyes           | <input type="checkbox"/> Eyelid tremors                | <input type="checkbox"/> Marked reddening of eyelids     |
| <input type="checkbox"/> Unusual effort to cover arms          | <input type="checkbox"/> Sleepiness (nodding)          | <input type="checkbox"/> Alcohol on breath               |
| <input type="checkbox"/> Fresh puncture marks                  | <input type="checkbox"/> Blank stare                   | <input type="checkbox"/> Untidiness                      |
| <input type="checkbox"/> Yawning excessively                   | <input type="checkbox"/> Change in grooming habits     | <input type="checkbox"/> Slurred speech                  |
| <input type="checkbox"/> Unsteady walk/poor coordination       | <input type="checkbox"/> Unusual thirst                | <input type="checkbox"/> Brittle hair and nails          |
| <input type="checkbox"/> Dry mouth                             | <input type="checkbox"/> Extreme bad breath            | <input type="checkbox"/> Receding gums                   |
| <input type="checkbox"/> Grinding teeth, dental problems       | <input type="checkbox"/> Excessive use of nasal sprays | <input type="checkbox"/> Shakes, hand tremors            |
| <input type="checkbox"/> Running nose                          | <input type="checkbox"/> Major weight gain or loss     | <input type="checkbox"/> Strong use of perfumes/colognes |
| <input type="checkbox"/> Use of breath purifiers (gums, spray) | <input type="checkbox"/> Sunglasses at inappropriate   | <input type="checkbox"/> Appearance Changes (# of times) |

## Mood

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Depressed or anxious all the time | <input type="checkbox"/> Irritable                        | <input type="checkbox"/> Suspicious             |
| <input type="checkbox"/> Complains about others            | <input type="checkbox"/> Low frustration tolerance levels | <input type="checkbox"/> Over-reaction          |
| <input type="checkbox"/> Mood changes after lunch or break | <input type="checkbox"/> Confusion/Disorientation         | <input type="checkbox"/> Emotional unsteadiness |

## Actions

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Becomes a loner                                      | <input type="checkbox"/> Withdrawn/Improperly talkative | <input type="checkbox"/> Argumentative           |
| <input type="checkbox"/> Exaggerated sense of self-importance                 | <input type="checkbox"/> Displays violent behavior      | <input type="checkbox"/> Excessive time on phone |
| <input type="checkbox"/> Avoids talking with supervisor regarding work issues |   |  |

## Relationships to Others on the Job

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Over-reaction to real/imagined criticism | <input type="checkbox"/> Avoidance & withdrawal from peers'  | <input type="checkbox"/> Wide swings in morale     |
| <input type="checkbox"/> Complaints from co-workers'              | <input type="checkbox"/> Unrealistic resentments   | <input type="checkbox"/> Recurring threats to quit |
| <input type="checkbox"/> Borrowing money from fellow employees    | <input type="checkbox"/> Complaints of problems at home, such as separation, divorce, child discipline |  |

### Accidents

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Taking of needless risks            | <input type="checkbox"/> Disregard for the safety of others | <input type="checkbox"/> Higher than average accident rate |
| <input type="checkbox"/> Damage to tribal property/equipment | <input type="checkbox"/> Damage to other property/equipment |  |

### Absenteeism

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Frequent use of time off (paid/unpaid) | <input type="checkbox"/> Unauthorized leaves*                   | <input type="checkbox"/> Excessive requests to leave work |
| <input type="checkbox"/> Long lunch hours                       | <input type="checkbox"/> Highly unlikely excuses for absences   | <input type="checkbox"/> Frequent unreported absences*    |
| <input type="checkbox"/> Acceleration of absenteeism/tardiness* | <input type="checkbox"/> Unusually high incidence of illnesses* | <input type="checkbox"/> Frequently leaving work area     |
| <input type="checkbox"/> Unexplained disappearance from the job |   |   |

\* especially on Mondays, Fridays, before and/or after holidays

### Work Patterns

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Inconsistency in quality of work          | <input type="checkbox"/> High & low periods of productivity | <input type="checkbox"/> Mental slow down                     |
| <input type="checkbox"/> Complaints from customers/clients         | <input type="checkbox"/> Lapses in concentration            | <input type="checkbox"/> Difficulty in recalling instructions |
| <input type="checkbox"/> Difficulty in remembering own mistakes    | <input type="checkbox"/> More mistakes than usual           | <input type="checkbox"/> Missing deadlines                    |
| <input type="checkbox"/> Using more time to complete work          | <input type="checkbox"/> Wasting materials                  | <input type="checkbox"/> Poor judgment                        |
| <input type="checkbox"/> Difficulty in handling complex situations | <input type="checkbox"/> General carelessness               |   |

**Please note that these indicators may be caused by other conditions or circumstances. In most cases, it is suggested that a determination of reasonable suspicion be based on more than one indicator.**

### DESCRIPTION OF ACTIONS OR BEHAVIORS

(provide a detailed description of the behaviors or indicators you observed. Apply **BOAS** – Describe Behavior, O odors, Apppearance, Speech when documenting observations)

### CHECKLIST

(Answer the following questions to establish reasonable cause for testing. Consult with Human Resources or designee to determine appropriateness of testing upon answering the following questions)

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| 1. Has impairment been displayed by the employee in their workplace appearance, actions and/or performance?  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. Could the impairment result from the possible use of drugs and/or alcohol?  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 3. Is the impairment current (within the past 12-24 hours)?  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 4. Did you personally witness the situation and/or the concerning appearance, actions, behavior or performance?                                      | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 5. Are witnesses or other observers able to document facts about the situation? (if yes, attach written documentation or additional completed forms) | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Director/Supervisor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name/Title: \_\_\_\_\_



## FALLON PAIUTE-SHOSHONE TRIBE CONTINUED EMPLOYMENT PLAN

The Continued Employment Plan is an alternative to termination or other disciplinary action for employees who failed or refused an alcohol/drug test and includes requirements such as screening, assessment, and/or treatment to maintain an employee's working relationship with the Tribe.

I have reviewed this with my Supervisor or Director and agree as follows:

Employee Initials

1. I acknowledge a positive drug or alcohol test or that I refused to take a drug or alcohol test as directed which is considered a positive drug or alcohol test. \_\_\_\_\_
2. I agree to be assessed by a drug or alcohol counselor identified by the Tribe. \_\_\_\_\_
3. I agree to authorize my counselor and any staff at treatment facilities to discuss findings and recommendations and treatment progress with the Human Resources Director and my Director/Supervisor and provide any records and sign any documents to carry this out. \_\_\_\_\_
4. I agree to participate in all treatment recommended by the counselor, which I understand may include referral to an in-patient or out-patient rehabilitation facility, and I agree to all follow up treatment recommendations, such as ongoing counseling or a support group. \_\_\_\_\_
5. I agree that all costs of treatment and unannounced, unscheduled testing are my financial responsibility. \_\_\_\_\_
6. I agree to abstain from alcohol and drugs, as required by the counselor. \_\_\_\_\_
7. I acknowledge that this CEP is a "last chance"; another positive test result will result in immediate termination. \_\_\_\_\_
8. I agree to unannounced, unscheduled testing for 12 months (with a minimum of once a month) following my return to work. \_\_\_\_\_

\_\_\_\_\_  
PRINT Employee Name

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

Signature of Human Resources Director: \_\_\_\_\_

Signature of Director/Supervisor: \_\_\_\_\_



## FALLON PAIUTE-SHOSHONE TRIBE

**EMPLOYEE WHISTLEBLOWER REPORT**

A whistleblower complaint is from a tribal employee and involves the reporting of illegal activities and/or gross mismanagement. Any employee who in good faith reports illegal activities or gross mismanagement are protected from retaliation from filing an Employee Whistleblower Report.

Name: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

Job Title: \_\_\_\_\_ # Pages Submitted: \_\_\_\_\_

Signature: \_\_\_\_\_

By signing this report, I certify that this report is true and correct to the best of my knowledge.

**Illegal Activity or Gross Mismanagement:**


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**Evidence [attach any proof]:**


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**Law Violated [if any]:**


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Attach additional sheets to this form is necessary.

\_\_\_\_\_  
Tribal Secretary Signature

\_\_\_\_\_  
Date

Progressive discipline is the process of using increasingly severe steps or measures when an employee fails to correct a problem after being given a reasonable opportunity to do so. Both minor and major discipline must be documented on this form and a copy must be provided to the Human Resources Department

Date: \_\_\_\_\_

**MINOR DISCIPLINE** (check one)

- [illegible]

Appendix M – Progressive Discipline Form

## LIST OF SUPPORTING DOCUMENTATION

List any supporting documents, such as time cards, emails, text messages, videos, policies, etc., and attach to form.

Type: \_\_\_\_\_ Description: \_\_\_\_\_

Type: \_\_\_\_\_ Description: \_\_\_\_\_

Type: \_\_\_\_\_ Description: \_\_\_\_\_

## DETAILS OF PRIOR DISCIPLINARY ACTIONS

List out all the prior disciplinary actions taken, such as counseling, warnings, prior write-ups, or suspensions.

1. \_\_\_\_\_ Date: \_\_\_\_\_

2. \_\_\_\_\_ Date: \_\_\_\_\_

3. \_\_\_\_\_ Date: \_\_\_\_\_

4. \_\_\_\_\_ Date: \_\_\_\_\_

## CORRECTIVE ACTIONS (if applicable)

Describe what the employee is directed to do to correct the situation, establish attainable objectives with realistic timeframes. Identify any resources to help the employee achieve these objectives:

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(Attach additional sheets if necessary)

## ACKNOWLEDGEMENT

I understand I have the right to submit written comments of my own about this matter. My signature on this form is not to be construed as an admission or denial. I understand that I may file a grievance of this action to the Tribal Administrator, however, any grievance for termination of my employment must be filed with the Fallon Business Council, in accordance with the Tribe's Employment Handbook (restrictions and limitations may apply - refer to the handbook for more information).

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**For Major Discipline the following approvals are required:**

Director Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
(if different from above)

Tribal Administrator Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Human Resources Signature: \_\_\_\_\_ Date: \_\_\_\_\_



## FALLON PAIUTE-SHOSHONE TRIBE NOTICE OF GRIEVANCE HEARING

To: \_\_\_\_\_  
[grievant]

And To: \_\_\_\_\_  
[Tribal Administrator]

And To: \_\_\_\_\_  
[HR Director]

**Date and Time.** The grievance filed by [name of grievant] is scheduled for a hearing in FBC Chambers at:

\_\_\_\_\_  
[time and date]

**Dismissal for Non-Attendance.** If the grievant does not appear for the hearing, the grievance may be dismissed.

**No Advocate.** The grievant may not be represented by an attorney or other advocate.

**Closed Hearing.** The grievance hearing will be closed to the public.

**Scope.** The hearing will be limited to the scope of the written grievance.

**Question Presented.** The hearing will only address whether the challenged termination is justified (either for cause or for budgetary reasons) and, if the termination is not justified, the appropriate relief.

**Deadline for Documentary Evidence.** Any documentary or other physical evidence that the grievant or management wishes FBC to consider must be delivered by regular mail or in-person to the FBC Secretary at least 3 working days before the grievance hearing. Any evidence not delivered by mail or hand-delivered by 3 working days before the hearing will not be considered. Electronic delivery of evidence is not allowed.

**A copy of this notice has been provided to the FBC.**

\_\_\_\_\_  
FBC Secretary

\_\_\_\_\_  
Date