

FALLON PAIUTE-SHOSHONE TRIBE



EMPLOYMENT HANDBOOK

Personnel Policies

Adopted by Fallon Business Council

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PART I – INTRODUCTION

Section A. Introduction

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

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 that 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 Fallon Paiute-Shoshone Tribe is a sovereign nation and has rights of self-determination and government. As such, many federal and state 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 Department Directors and Managers. However, the Chairman, Secretary, and Treasurer have their own staff. In those instances where the person in charge of the department is the Chairman, Secretary, or Treasurer, that person should be substituted for the Department Director or Manager. 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.

Unless otherwise noted, any reference to “days” in these policies refers to calendar days.

Section B. Mission Statement for Employees

The Fallon-Paiute Shoshone 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.

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 Tribal 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 Manager to request an accommodation.

Section B. Employment Announcement and Selection

1. New Position Creation; Personnel Requisition Form

When a need for a new position has been identified, the Department Director or Manager must prepare a description of the position (job title, duties, qualifications, and budget to fund the position) and submit it to the Human Resources Manager who may assist in completion of this paperwork.

For a new position or vacancy, a Personnel Requisition Form shall be completed. The Personnel Requisition Form is attached as Appendix A.

2. FBC Approval of New Position

Before the new position is announced, the new position, including the budget required to fund the position, shall be approved by FBC.

Changing a job title without changing the duties of the position does not constitute a new position needing FBC approval.

3. Position Announcement for New Position or Position Vacancies

Approved new positions or vacant positions shall be announced, posted, and advertised for a period of 10 days and shall include, at minimum, the position title, the rate of pay hiring range (steps 1 - 7), and the nature of the work to be performed.

A professional position requiring a licensure (i.e., physicians, dentists, attorney) shall be advertised with the pay range being “rate of pay depends on experience.”

If, in the Department Director’s or Manger’s sole judgment, the number of applicants received by the deadline is insufficient, the Department Director or Manager may extend this period.

4. **Applicant Screening Process**

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

- a) Verify that all applications are submitted by the posted deadline and are complete and accurate (through reference checks, if necessary). Applications that are late, incomplete, or inaccurate may be screened out.
- b) Analyze the job description to establish screening criteria.
- c) Screen verified applications.
- d) Recommend a list of applicants to be interviewed.

All qualified applicants who are FPST Tribal members shall receive an interview.

5. **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.

- a) If an applicant does not meet the educational/specialized training requirement, then the Department Director or Manager and Human Resources Manager may consider a candidate's work experience as a substitute for an educational requirement beyond a high school diploma/GED or specialized training. 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.

6. **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 Manager.

7. **Interview Process**

Human Resources will facilitate only in the interview process for all positions as listed below.

- a) **Tribal Administrator**
Reviews, interviews, and selections are to be made by a quorum of FBC.
- b) **Department Director or Manager**
Reviews, interviews, and selections are to be made by a quorum of FBC. The departments referenced under this section are Tribal Natural Resources, Environmental Protection, Education, Social Services, Health Services, Law Enforcement, Judicial Services, Emergency Youth Shelter, and the Administration programs (i.e., Grants, Information Technology, Human Resources, and Victim Services, etc.); as well as any department and administration programs added in the future.
- c) **Law Enforcement Personnel**
Excluding the Chief of Police position, which is covered above as a department director, the reviews, interviews and selections are to be made by a panel comprised of the immediate supervisor, Chief of Police, and members of FBC.
- d) **Other Management Positions**
Reviews, interviews, and selections are to be made by a panel of 3 to 5 people comprised of the Tribal Administrator, the Department Director or Manager, and at least one to three other employees, officials, or committee members.
- e) **All Other Positions**
Reviews, interviews, and selections shall be made by the Tribal Administrator, the Department Director or Manager, the Program Manager (if applicable), and one to two other employees, or officials.

8. **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.

9. **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 interview process, as set forth below:

- a) **Indian Preference - 3 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 - 5 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.

10. **Application Retention**

Applications will be retained on file for a period of 12 months.

Section C. Reduction in Force or Layoff

1. **General Provisions**

The Tribe may separate any employee because of a lack of funds or shortage of work after providing 5 working days written notice to the affected employee. No regular status employee shall be separated from any department while there is a probationary, emergency, or temporary employee serving in the same class of position in that department. 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.

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 department 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 D. Nepotism

Nepotism can create an actual or perceived conflict of interest or favoritism in the employment setting, including where one relative hires or supervises another relative. When the potential for nepotism between immediate family members exists, the Tribe may refuse to hire or reassign an immediate family member. For the purposes of this policy, "immediate family member" is defined as a spouse, child, parent, or sibling.

If two employees marry, or become immediate family members, or enter into an intimate relationship, 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 Tribe will attempt to identify alternate (available) positions, and the employees will have 30 days to decide which individual will remain in his/her current position. If this decision is not made in the time allowed, the Tribal Administrator will make the decision after consultation with the Department Director or Manager and Human Resources Manager.

Section E. 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 Manual and may include review of an applicant's or employee's credit report.

1. Current Employees Background Checks

All current Tribal employees who have not undergone criminal background checks will do so in order to ensure that all employees meet the requirements set by applicable law and standards.

Additionally, the Tribe may conduct a criminal background investigation of a current employee when warranted, such as when Tribal assets or the safety of Tribal personnel may be in jeopardy. Employees subject to an investigation who are placed on leave shall continue to receive full pay during the investigation for up to six months.

Written notification will be given to employees prior to initiating the background investigation. Upon notification, employees will be required to submit a complete and accurate Authorization for Release of Information form, a copy of their valid state identification, and a copy of their social security card, within the time specified

in the notification. Within 10 working days of submitting these forms, employees must submit two completed fingerprint cards. These fingerprint cards may be completed at the Fallon Tribal Police Department.

Local and Tribal criminal background checks will be conducted first. If these checks are clear or show that the employee meets the minimum standards of employment, then state and federal criminal background checks will be conducted. Once completed, written notification of clearance to work will be sent to the Human Resources Manager and Department Director or Manager. If, at any time during this process, information is obtained that shows that an employee is not qualified for their current position, written notification will be sent to the Human Resources Manager, the Department Director or Manager, and the employee. Employees not meeting the minimum standards for their position will have a maximum of 60 days to vacate their position. Less time will be allowed if, in the discretion of the Tribe, it is warranted in light of the nature of the criminal history and nature of the position held, or if applicable law requires. Employees that are no longer qualified to serve in their current position may apply for another open position within the Tribe.

Tribal employees may discuss their concerns about the results of a criminal background check unofficially with the Human Resources Manager, Department Director, or Program Manager and receive informal suggestions and information during that time. Nothing discussed during this informal meeting will be used against either party and only official documents will be considered in making decisions.

Failure to cooperate with the background investigation process will result in termination.

Additional background checks may be required depending on applicable legal, funding or other requirements.

2. **Applicant Background Checks**

All persons being considered for employment with the Tribe, including all contracted and volunteer employees, will be subject to this Part II, Section E. No applicant shall begin employment until a pre-employment background investigation is complete, unless waived in writing by the Chairman or his or her designee, who may authorize an applicant to start work with the condition that the investigation must be completed as soon as possible and that the outcome of the investigation is acceptable to the Tribe. The Tribe may impose conditions on the employee's work if necessary to comply with applicable law. This waiver shall not apply to any positions where a waiver is not allowed by applicable law.

Section F. Probationary Period

The first three months of continuous employment in any position at the Tribe shall be a probationary period. This applies to new hires and employees transferred to different

positions. The purpose of the probationary period is to train and evaluate the performance of the employee and determine if the employee can satisfactorily perform the duties of the position. The probationary period may be extended (typically for one to three months) prior to the completion of six months if performance is unsatisfactory.

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

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

Newly-Hired employees are not entitled to any benefits (except holiday 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 six months of continuous employment in a full-time, regular status position, and have worked a minimum of 832 hours during their probation and 448 hours in the previous seven pay periods. Full-time and part-time employees shall accrue paid time off benefits but shall not be entitled to use them until after the probationary period.

Section G. Position Duties

As part of initial orientation, employees will learn the various duties and responsibilities of their job and a copy of the written job description will be provided which sets forth the expectations and standards applicable to their position. The supervisor will review these with them. In order to adjust to changes in the conduct of our business, it may become necessary to modify an employee's job description, add to or remove certain duties and responsibilities, or reassign an employee to an alternate position.

All changes to job descriptions must be approved by FBC.

Section H. Employment Status

1. Purpose

The Tribe follows the outlines of the Fair Labor Standards Act ("FLSA"). For purposes of implementing this and other policies, this section defines employee status categories for all employees of the Tribe.

2. Policy

All employees of the Tribe must fall under one of the defined categories of employment status. The Tribe may hire full-time, part-time, temporary, seasonal, grant-funded, limited term, or temporary employees pursuant to the budgetary approval by FBC.

3. Definitions

- a) **FLSA Exempt:** An employee in a position classified as exempt is paid biweekly, is not required under the 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. Subject to exceptions in Part IV, Section D of this Handbook, 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. Exempt employees will utilize time cards for accounting purposes. Exempt employees shall not abuse these rules. Exempt employees must complete assigned work in a timely and satisfactory manner.
- b) **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. Non-exempt employees will record hours worked on a time card in order to be paid.
- c) **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 28-day work period.
- d) **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.

4. Employment Status Categories

- a) **Regular Full-Time (FLSA exempt):** Employees who work a minimum of 1,560 hours per year (30 hours per week) and are not eligible for overtime pay. A full-time exempt employee is expected to work whatever hours necessary to complete the requirements of the employee's job. Employees who are classified as exempt are paid on a "salaried basis" meaning that the person will be paid the same full salary for work performed without regard to the number of hours worked.
- b) **Regular Full-Time (FLSA non-exempt):** Employees who work a minimum of 1,560 hours per year (30 hours per week) and are eligible for overtime pay.
- c) **Regular Part-Time (FLSA exempt):** Employees who are normally scheduled to work between 1,040 hours per year (20 hours per week) and 1,560 hours per year (30 hours per week) and are not eligible for overtime pay. Regular part-time employees are not eligible to receive benefits such as employer-funded medical insurance and retirement contributions.

- d) **Regular Part-Time (FLSA non-exempt):** Employees who are normally scheduled to work between 1,040 hours per year (20 hours per week) and 1,560 hours per year (30 hours per week) and are eligible for overtime pay. Regular part-time employees are not eligible to receive benefits such as employer-funded medical insurance and retirement contributions.
- e) **Less than Part-Time:** Employees who normally work well under 1,040 hours per year (20 hours per week). Part-time employees are not eligible to receive benefits such as employer-funded medical insurance and retirement contributions.
- f) **Seasonal/Intermittent:** Employees hired to perform seasonal or intermittent work for a specific time period. Seasonal/Intermittent employees, including those who change from an employment status with benefits, are not eligible to receive benefits such as employer-funded medical insurance and retirement contributions. Employment terminates at the end of the season or specified time period.
- g) **Grant-Funded:** Employees hired to perform work covered by a specific grant. Grant-funded employees may receive limited benefits dependent solely upon grant funding and based on regular status as defined above.
- h) **Emergency Appointments:** Whenever there is an urgent need to fill a vacancy, an emergency appointment may be made in accordance with Subsection 5 below.
- i) **Volunteers:** Departments/programs must notify Human Resources before utilizing volunteers in a timely manner to enable all paperwork and appropriate background checks to be completed.
- j) **Temporary Workers:** Temporary workers are existing employees who serve for up to 45 days in a position other than their normal position. In such case, the temporary worker shall continue to receive the same benefits. The temporary worker's rate of pay shall be at the rate paid for the temporary position but in no case less than the rate of pay employee receives in his or her normal position.

5. **Emergency Workers**

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

The selection of the Emergency Worker will be from those who have already been selected as qualified for the position. If there are none, then applications for similar positions may be used. To the extent possible, the normal hiring procedures in Part II, Section B shall be followed.

Emergency Workers will not receive benefits and will be employed for no more than 45 days. This emergency measure is designed to provide a worker to the program while allowing six weeks for the position to be advertised and filled in a normal manner as provided in Part II, Section B. An Emergency Worker cannot be converted to a Regular Employee. In accordance with the Tribal Constitution, 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 I. Performance Evaluations

The Tribe believes in the principle that employees should be given the opportunity to demonstrate their abilities and continually improve their job performance. The Tribe strives to conduct written performance evaluations six months after an employee's probationary period ends and every September thereafter. The employee must sign the performance review 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.

This review process is intended to afford both employee and his/her supervisor the opportunity to discuss the employee's performance, encourage and recognize contributions, and discuss methods for improving the employee's performance.

At the annual performance evaluation, 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.

A performance appraisal, including a favorable appraisal, does not automatically result in a pay increase or even continued employment. The supervisor of the employee does not have the final authority to grant pay increases due to performance evaluations, but may recommend them. Pay increases and other terms and conditions of employment, including job assignments, transfers, promotions, and demotions are determined by budget constraints and are approved in the discretion of FBC (if pay increase is over 5%), the Department Director or Manager, Tribal Administrator, and Comptroller. If approved, most pay increases go into effect in January each year.

Section J. Pay and Level Increases

1. Pay Increases

The Wage Scale for Tribal employees is approved by FBC. Pay increases are those incremental merit raises within an existing pay level on the Wage Scale.

Pay increases are based on employee performance and not longevity with the Tribe or seniority. Pay increases are subject to budget considerations and are not guaranteed.

Any pay increase over 5% must be approved by FBC.

2. Change in Pay Level

Pay levels are set forth in the Wage Scale. A change in pay level does not automatically warrant a pay increase. If an employee is at the peak or top of a level, no additional raises can be achieved without a position re-evaluation due to a change in job duties/responsibilities by the Human Resources Director and approval by FBC. An increase in the amount of work to be performed or added job duties does not typically justify a new pay level.

Pay increases are normally given in January of each year and are based on the most recent performance evaluation, which is typically given in the previous September.

In the first year of employment, the first evaluation will take place after six months. An employee may not receive his or her first pay increase until after six months of employment.

Subject to budget constraints, the Tribe may provide cost of living adjustments (aka COLA).

Section K. Temporary Combining of Positions

For up to 12 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. The combined position may be extended beyond 12 months if the employee consents and FBC approves in advance. 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.

Section L. Acting Director or Manager

In the event a director or manager position is temporarily vacant, the Tribal Administrator may appoint an employee to serve as an acting director or manager for up to 12 months. The Tribal Administrator may increase the rate of pay for that employee at his or her discretion depending on the change in scope of work, level of responsibilities, and the duration of the acting position, provided that the employee must be paid the rate of pay for an entry level director or manager, at minimum. The 12-month period may be extended if necessary due to the lack of qualified applicants. 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 acting director or manager position.

Section M. 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. 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 division/department head to ensure personnel changes are done in a time-efficient manner.

PART III – GENERAL WORK POLICIES

Section A. Member/Customer Service

The Tribe's success depends on serving our members. Tribal employees are to attend to members' questions and requests promptly and professionally. Tribal employees are expected to treat members courteously and with the utmost respect at all times and comply with confidentiality policies.

Section B. Confidentiality of Proprietary Information

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. Examples of such information include personnel, employee compensation, financial, commercial, legal, and similar information.

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

Section C. Confidentiality of 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 Manager's office. Employees must report any changes, such as address, phone number, or dependents, to the Human Resources Manager 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 and on a need to know basis.

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 his or her personnel file by written request submitted to the Human Resources Manager.

Section D. Dress Code and Personal Appearance

Employees are expected to report to work well-groomed, clean, and dressed befitting the requirements of their position. Employees who interact with the public must have a professional personal appearance. Some employees may be required to wear uniforms or safety equipment.

Department management will determine and communicate acceptable attire for their department. Should an employee report to work dressed or groomed inappropriately, he or she may be directed to clock out and go home and return to work in appropriate attire.

Section E. Statements to the Media

All media inquiries regarding the Tribe or its operations must be referred to the Tribal Chairman. Only the Chairman or the Chairman's designee is authorized to make or approve public statements pertaining to the Tribe or its operations.

Section F. Insider Trading Policy

The Tribe forbids employees 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 G. 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 ensure that the child does not spread infectious disease or otherwise harm others. 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 require visitors to sign in and out.

Section H. Tobacco Prohibited

Employees, tribal members, vendors and other guests are not allowed to smoke or chew tobacco in any of the Tribe's facilities or vehicles at any time. Employees are not permitted to smoke except in designated smoking areas.

Section I. Employee Property

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

Section J. No Solicitation and Distribution for Non-Tribal Purposes

Unless approved in advance by the Chairman 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 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 K. Housekeeping

All employees are expected to maintain their desks and work areas in an orderly fashion and pick up after his/her self when using the break room, locker room, restroom, or other common areas.

Section L. Bulletin Boards

Bulletin boards are reserved for the exclusive use of the Tribe for posting work-related notices or notices posted consistent with Tribal or federal law. Please check the boards for these notices. All postings must be authorized by the Tribal Chairman, Human Resources Manager, Tribal Administrator, or Department Director or Manager.

Section M. Telephones

While at work, employees are expected to perform their job duties and responsibilities. Personal calls on Tribal or mobile phones, both incoming and outgoing, except during authorized breaks, must be kept to a minimum. Long distance calls on Tribal phones are prohibited unless approved by an employee's supervisor or Department Director or Manager. Tribally-provided cell phones are for work use only. Any other use of Tribally-provided cell phones is prohibited.

Section N. 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 or the Department Director or Manager, 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 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.

At any time and without prior notice, the Tribe may monitor, inspect and search any and all of its property or question, inspect and search any employee's person and anything possessed by such employee at any time during the employee's working hours 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 Department Director or Manager and either the Tribal Administrator or Human Resources Manager.

Section O. Use of Email, the Internet and Social Networking

Computer and mobile phone social networking, computer or mobile phone games, and other similar activities for non-Tribal business should not occur during work hours. Employees are responsible for the content of all text, audio or images they place on or send over the Tribe's technical resources. Use of the Tribe's technical resources to harass or discriminate is prohibited. Sending, saving or viewing offensive material, including sexual, racist or discriminatory information, is prohibited.

E-mail messages containing confidential information should include the following statement, in all capital letters at the bottom of the message: CONFIDENTIAL: UNAUTHORIZED USE OR DISCLOSURE IS STRICTLY PROHIBITED.

Section P. 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 Q. Software Policy

Before installing software or other programs on any Tribal computer, mobile phone, or other device, authorization from the appropriate supervisor or IT must be obtained.

Section R. 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. Employees may be required to reimburse the cost of postage for non-business related materials that they send through the Tribe's mail services.

Section S. Operation of Vehicles

Employees may use Tribal vehicles only if authorized and covered by Tribal 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.

Use of Tribal vehicles is limited to work-related activities and may not be used for personal activities. The following departments may be authorized to keep Tribal vehicles in their possession: Law Enforcement, Public Works, on-call Human Services, and Seasonal Irrigators. 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.

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.

All employees authorized to drive Tribal vehicles or to rent vehicles for use in conducting Tribal business must: (1) possess a current, valid driver's license; (2) maintain an acceptable driving record as determined by the Tribe's insurance company; and (3) obtain any specific state required permits or licenses necessary to operate Tribal vehicles. Those employees authorized to drive their personal vehicles while conducting Tribal business must maintain personal automobile insurance.

In addition to providing a copy of the driving record at the time of the annual performance evaluation, any change in a driver's license or permit status must be reported to management immediately.

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 business 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 Tribal 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 the employees' 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.

Attached to this Handbook as Appendix B is a list of unacceptable motor vehicle infractions. This list is subject to change based on insurance requirements and Tribal management's discretion. In the discretion of the Department Director or Manager, in consultation with the Tribal Administrator or Human Resources Manager, 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.

Tribal transit services and operations are not covered by this Part III, Section S.

Section T. Reporting Crime

Employees should report any suspicious person or activities in the workplace to his or her supervisor or the police.

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 U. Whistleblower Policy

The whistleblower policy is set forth in Appendix C.

Section V. 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. If medical attention is required, supervisors will assist employees in obtaining medical care, and prepare a written report of the details of the injury or accident as soon as possible.

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., Monday through Friday. However, some departments and positions will have different work schedules. Employees are expected to work their assigned work schedule.

In the discretion of the Department Director or Manager, employees may have flexible schedules, such as workweeks of four ten-hour days. The schedule shall be documented in writing between the Department Director or Manager and the employee. The department shall ensure that there is adequate staff available to serve the public during all regular Tribal business hours.

Power failures, fire or severe weather 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 Chairman or the Chairman's designee 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.

Section B. Timekeeping Procedures

All employees must use the applicable Tribal time clock to record their actual time worked on a standardized time card approved by the Finance Department. 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 handwritten, and must be initialed the same or next day by the appropriate supervisor with a brief explanation. 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.

Time clock malfunctions shall be reported to management immediately.

Each employee must complete and sign 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.

Any employee whose position is funded by a grant must complete any documentation that is a requirement of the grant, such as special time and effort certifications.

Time cards and time sheets shall be submitted to the supervisor at the end of pay periods.

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. All time cards must remain on the work premises at all times.

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. Overtime for non-exempt employees requires the prior approval of the employee's supervisor. Time cards must be clocked in/out using the appropriate time card machine with no write-ins unless initialed by the employee and supervisor. The time sheet can be completed by hand or on an Excel file and must be signed by both the employee and the assigned supervisor.

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, annual, 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 Department Director or Manager 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. Employees shall report this time to their

supervisors on an overtime authorization form, as well as on the employee's timesheet.

- 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 28-day work period, are eligible for overtime compensation.
- b) **Exempt Employees.** Exempt employees are not eligible to earn overtime compensation. This does not, however, preclude supervisors from using their discretion and granting time off to exempt employees in recognition of time worked in excess of normal work hours. However, all time off granted under this policy must be used within the same workweek it was earned under the Flex Time policy in this Section.
- 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 H 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 at a rate of one and one-half (1.5) times the employee's regular hourly rate of pay 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 86 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 may work overtime only with prior written authorization from their supervisors. 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 in which the overtime is earned to avoid hours of actual work in excess of 40 hours in that workweek.

8. **Minimum Wage**

All employees shall receive a current minimum wage. On an annual basis, Human Resources will review the federal minimum hourly wages.

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.

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 categories of workers which may be exempt employees, for example:

- Executive employees
- Administrative employees
- Learned professional employees
- Creative professional employees
- Computer employees
- Highly compensated employees
- Outside sales employees

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**

- a) Exempt employees receive a full week's pay for a workweek in which they perform any work, regardless of number of days or hours worked. However, deductions from an exempt employee's pay are allowed if:
 - i. The employee is absent for one or more full days due to sickness or disability (including work-related accidents) and the deduction is made in accordance with applicable policies, laws, plans, or practices that provide wage replacement benefits for such absences;

- ii. The employee is absent for one or more full days for personal reasons other than sickness or disability, except that exempt employees may not have pay deducted for absences due to jury duty or appearance as a court witness;
 - iii. The Tribe imposes, in good faith, penalties for infractions of safety rules of major significance;
 - iv. The Tribe imposes, in good faith, unpaid disciplinary suspensions of one or more full days for infractions of certain workplace conduct rules such as rules prohibiting sexual harassment, workplace violence, drug or alcohol use, or for violations of Tribal, state or federal laws. This provision refers to serious misconduct, not performance or attendance issues;
 - v. The employee takes unpaid leave under the Family and Medical Leave Act;
 - vi. The employee does not work a full week in the initial or final weeks of employment; or
 - vii. The employee is absent for an entire workweek or performs no work during an entire workweek, provided that the absences and/or lack of work were not caused by the Tribe as employer.
- b) Exempt employees are not entitled to overtime compensation. However, a supervisor may allow an exempt employee who has accrued significant time during a workweek to off-set his or her schedule under Part IV, Section C of this Handbook.
 - c) Exempt employees shall not abuse these rules. Exempt employees must complete assigned work in a timely and satisfactory manner.

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. 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. 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.

Pay advances or employee loans are prohibited.

Section F. Standby and 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 and respond to emergency call-backs. Thus, it is the policy of the Tribe to provide incentive pay to compensate employees for standby on-call and emergency call-back time. Reasonableness and fairness shall be exercised in administering this policy.

Directors/Managers 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 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 or Manager.

2. Definitions

- a) **On-Call:** An employee is on-call when the employee must remain available to be called back to 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.
- b) **Standby:** Standby refers to the time during an on-call shift that an employee is waiting for a call and not working.
- c) **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.

- d) **Weekend:** For purpose of this section, the weekend is 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.
- e) **Holiday:** For the purposes of this section, a holiday is a day set forth as a holiday in accordance with Part V, Section A of this Handbook. Each one day of a holiday period is recognized as a 24-hour period.
- f) **Exempt Employee:** For the purposes of this policy, exempt refers to employees who are exempt as defined in Part II, Section H of this Handbook.
- g) **Non-Exempt Employee:** For the purposes of this policy, non-exempt refers to employees who are not exempt as defined in Part II, Section H of this Handbook.

3. 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 under the "Other" section the times 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 period. 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 based on position type as set forth below. Standby pay must be in the form of pay at the following rates:
 - i. \$3.00 per hour for the following position types:
 - A) Medical and Health Care
 - B) Information Technology
 - C) Skilled Trades
 - ii. \$2.00 per hour for the following occupations:
 - A) Accounting and Finance
 - B) Social and Human Services
 - C) Administrative, Management, & General Government Operations
 - D) Agricultural and Conservation

- c) **Working Time during On-Call Shift.** Non-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, or overtime rate if applicable, for all time spent responding to a call. 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. Employees shall note on their Employee 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 employee's hours worked and will be used to determine eligibility for overtime.

4. **Emergency Call-Back Compensation**

An eligible employee who has left work and is subsequently required to return to work 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. This applies to both exempt and non-exempt employees. Employees shall note on their Employee Timesheet under the "Other" section the times that they were in emergency call-back Status and shall be compensated as outlined in this Section.

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 as a temporary or emergency employee or employment with a Tribal business 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 become 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)
- 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 H.4.c) will receive a pro rata share of holiday pay based on hours normally worked. Temporary, intermittent, less than part-time, or emergency employees are not eligible for holiday pay.

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 Tribal Chairman or FBC may designate additional paid holidays.

Section B. Vacation

Eligible full-time employees accrue paid vacation as follows:

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

Eligible part-time employees (as defined in Part II, Section H.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 (temporary, intermittent, less than part-time, or emergency) 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.

In the event an employee has in excess of 160 hours as of the date this policy is enacted, such employee shall be entitled to keep hours in excess of 160 for three years from the date of enactment and use up to 40 hours in excess of normal vacation leave per year.

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 be not be paid if an employee voluntarily separates from employment without providing two weeks' notice unless the Department Director or Manager 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 to the Tribal Administrator and Finance Department prior to March 31, 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. Appendix D must be completed in advance for vacation leave. 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 probationary period.

Section C. Personal Time Off

Eligible full-time employees accrue personal time off (PTO) at the rate of 120 hours per year. Eligible part-time employees (as defined in Part II, Section H.4.c) shall accrue PTO on a pro-rated basis in proportion to the hours they work in a 40-hour work week. Temporary, intermittent, less than part-time, or emergency employees are not eligible for PTO.

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

Appendix D must be completed for PTO. PTO may be taken for any reason, including without limitation employee illness or family illness. Employees must provide as much notice as possible when requesting PTO.

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 Department Director or Manager.

PTO accrues but may not be taken during the probationary period. 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 VI, Section F 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

The Tribal Chairman or FBC may designate all or part of a workday as paid administrative leave.

Paid administrative leave applies to all employees regardless of employee categories or probationary status.

In order to be eligible for paid administrative leave, an employee must be scheduled for the day of work on which such leave is provided.

If paid administrative leave is for a full day, full-time employees will receive a full day of pay and part-time employees (as defined in Part II, Section H.4.c) 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 am to 5:00 pm may not be eligible for paid administrative leave. For example, employees who start work before 8:00 am or who serve a department with 24 hour operations, may not receive the benefit of all or part of paid administrative leave. In the discretion of the Department Manager or Director, schedules may be modified within the same workweek in which a full day of paid administrative leave was granted to allow such employees to take all or part of the paid administrative leave granted for that workweek.

In order to be eligible for paid 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.

The Tribal Chairman or Administrator may grant administrative leave with pay to an individual employee if necessary for the employee's safety or when an employee is under investigation. The leave shall be limited to the amount of time to accomplish the purpose, but in no case more than 30 days.

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 Department Director or Manager and Human Resources Manager. Donated leave is only allowed in the case of catastrophic medical illness of the employee or a family member of the employee. The Tribe may require a doctor's statement or other documentation to support the request. Any donated leave that is not used shall be returned to the employee who donated such leave.

Section F. Medical Insurance

The Tribe provides 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 90 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.

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 Resource Manager.
2. Seek medical treatment and follow-up care, if required.

3. Submit documentation to your supervisor or Human Resources Manager 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 Appendix G.

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 worker's 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 or Manager 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 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 service member with a serious injury or illness if the eligible employee is the service member's spouse, son, daughter, parent, or next of kin (military caregiver leave).

2. **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.

3. **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.
- b) Certification from a health care provider (both prior to the leave and prior to reinstatement).
- c) Periodic re-certification (no more than every 30 days).
- 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.

4. **Compensation during Leave**

Family and medical leave is unpaid. The Tribe may require the employee to use accrued paid leave (such as vacation, PTO, and other paid time off) to cover some or all of the family and medical leave. The use of paid time off will not extend the length of a family and medical leave.

5. 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).

6. 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 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 bereavement leave by the Department Director or Manager under the following conditions:

1. Absence of up to 5 days will be permitted for bereavement of the immediate family or spouse/significant other's immediate family. For purposes of this policy, "immediate family members" is listed as:
 - Current spouse
 - Parent
 - In-law (sibling, parent, or grand-parent in-law)
 - Legal Guardian
 - Child
 - Sister, Brother
 - Aunt, Uncle
 - Grandmother, Grandfather, Grandchild
 - Niece or Nephew
 - Step-relative of any of the above
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 one half day (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.

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.

Section O. Witness Duty

Non-probationary 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. 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.

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 Voluntary 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 for regular full or part-time employees.

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. Causing, creating, or participating in a disruption of any kind during working hours or on premises owned or occupied by the Tribe.
14. 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.
15. Profane or abusive language at any time during working hours or while on premises owned or occupied by the Tribe.

16. Failing to notify the appropriate supervisor when unable to report to work.
17. An unreported absence on a scheduled workday.
18. Failing to obtain permission to leave work for any reason during normal working hours.
19. Failing to observe work schedules, including rest and lunch periods.
20. Failing to provide a physician's certificate when requested or required to do so.
21. Failing to provide a copy of a driving record on an annual basis, as set forth in Part II, Section I.
22. Sleeping or malingering on the job.
23. Working overtime without authorization, or refusing to work assigned overtime.
24. Wearing extreme, unprofessional, or inappropriate styles of dress or hair while working, or which are unsafe or inappropriate for the department.
25. Violating any safety, health or security policy, rule or procedure of the Tribe.
26. Committing a fraudulent act or a breach of trust.
27. Excessive absences or tardies/lateness.
28. Using tobacco products on Tribal property or in Tribal vehicles outside of designated smoking areas.
29. Violating any Tribal confidentiality rules.
30. Possession or use of pornographic materials in the workplace or use of Tribal equipment to access, view or store pornographic material.
31. Engaging in prohibited discrimination or harassment.
32. Violating any of the Tribe's written policies, including without limitation the policies set forth in this Handbook.

Section B. Unlawful Discrimination and Harassment

The Tribe prohibits discrimination and harassment because of sex (including pregnancy and gender identity), sexual orientation, race, color, genetic information, national origin, ancestry, religion, physical or mental disability, veteran status, age, or any other basis protected by law ("Protected Group Status").

1. Discrimination

The Tribe prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of any Protected Group Status.

Employees should report every instance of discrimination to his/her supervisor and/or the Human Resources Manager regardless of whether the employee or

someone else is the subject of the discrimination. Detailed reports - including names, descriptions, and actual events or statements made - will greatly enhance the Tribe's ability to investigate. Tribal management will take any appropriate corrective and disciplinary action.

2. **Harrassment**

The Tribe prohibits harassing conduct on the basis of any Protected Group Status. Harassing conduct is any unwelcome conduct, verbal or physical, that either:

- results in an employment decision affecting the employee and is based upon the employee's acceptance or rejection of such conduct (sometime referred to as "quid pro quo harassment"); or
- can reasonably be considered to adversely affect the work environment (sometimes referred to as "hostile work environment").

A hostile work environment based on sex may be created by:

1. Unwanted sexual advances.
2. Offering employment benefits in exchange for sexual favors.
3. Making or threatening reprisals after a negative response to sexual advances.
4. Visual conduct such as leering, making sexual gestures, or displaying sexually suggestive objects, pictures, cartoons, or posters.
5. Verbal conduct such as making sexual advances, using degrading or derogatory terms, graphic language, sexually explicit jokes or comments about any employee's body or dress.
6. Physical conduct such as touching, impeding or blocking movements, or assault.
7. Use of written material such as suggestive or obscene letters, notes, or invitations.

Quid pro quo sexual harassment may be where submission to or rejection of sexual conduct is used as basis for employment decisions affecting the individual or is made a term or condition of employment.

Any employee who believes that he or she has been subjected to, or has witnessed, any harassing conduct should report the matter promptly to a person in their supervisory chain of command. Similarly, any applicant who believes that he or she has been subjected to harassing conduct during the process of applying for Tribal employment should report the incident to the Tribal Administrator or Human Resources Manager.

In instances of alleged harassing conduct, the Tribe will take every step to ensure a fair and prompt resolution. Tribal management must act fairly and promptly to investigate and resolve reports of harassing conduct. Where appropriate, the Tribe

will provide interim relief to employees who are victims of alleged harassing conduct to ensure that further misconduct does not occur. If harassing conduct is found to have occurred, Tribal management will take any appropriate corrective and disciplinary actions. The Tribe will take disciplinary actions against Tribal management who do not fully carry out their responsibilities under this policy.

3. **No Retaliation**

Employees are encouraged to make good-faith complaints of discrimination or harassment. The Tribe prohibits retaliation against any employee for making a good-faith report of discrimination or harassing conduct or for cooperating with or participating in any investigation of alleged discrimination or harassing conduct. All information provided to Tribal management will be maintained on a confidential basis to the greatest extent possible.

Section C. Illegal Drug and Alcohol Abuse

It is the goal of Tribe to establish and maintain a safe and healthy workplace for its employees, free from drug and alcohol abuse, and to protect the safety of the public by providing the highest quality service. While the Tribe is concerned about the health and welfare of employees who may be experiencing problems with drugs or alcohol, it has a responsibility to maintain a drug and alcohol-free workplace. The use of alcohol, illegal drugs or the misuse of prescription drugs is not acceptable and will not be tolerated in the Tribal workplace. As a condition of employment, each employee shall abide by the terms of this policy and regulations respecting a drug and alcohol-free workplace.

The drug and alcohol testing policies and procedures are set forth in Appendix G.

Section D. Policy against Bullying

1. **Defined**

The Tribe defines bullying as any of the following repeated behaviors, either direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work or in the course of employment:

- a) **Verbal Bullying:** slandering, ridiculing or maligning a person or his/her family; persistent name calling which is hurtful, insulting or humiliating; using a person as the subject of jokes; making abusive and offensive remarks.
- b) **Physical Bullying:** pushing; shoving; kicking; poking; tripping; assault, or the threat of physical assault; damaging a person's work area or property.
- c) **Gesture Bullying:** non-verbal threatening gestures which can convey threatening messages.

- d) **Cyber Bullying:** harming or harassing through the use of information technology.
- e) **Exclusion:** socially or physically excluding or disregarding a person in work-related activities.

The Tribe urges the prompt reporting of all incidents of bullying, regardless of the offender's identity or position, to their immediate supervisor, Department Director or Manager, the Human Resources Manager, or the Tribal Administrator. Tribal management will take any appropriate corrective and disciplinary actions.

2. **No Retaliation**

Employees are encouraged to make good-faith complaints of bullying. The Tribe prohibits retaliation against any employee for making a good-faith report of bullying or for cooperating with or participating in any investigation of alleged bullying. All information provided to Tribal management will be maintained on a confidential basis to the greatest extent possible.

Section E. 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 Tribal law enforcement authorities and/or removed from the premises as quickly as safety permits.

Section F. Punctuality and Attendance

Employees are expected to report to work on time. If an employee cannot avoid being late to work, or is unable to work as scheduled, he or she must call their supervisor as soon as possible in a timely manner according to their departmental policy, but no later than the start of their shift.

Every time an employee is absent, tardy/late, or leaves work early, that employee must provide his or her supervisor with the reason for missing work and the expected duration of any absence. If the absence is due to illness and lasts three days or more, a doctor's statement authorizing a return to work will be required by the supervisor. A doctor's statement may also be required before three days in some cases.

For employees who have passed their probationary period, excessive absenteeism will be defined as 5 unscheduled, unreasonable, or unexcused occurrences of absence of at least one-half day within a four-month period. Excessive absenteeism will be subject to progressive discipline. The first incident of excessive absenteeism in any 12-month period will result in the lowest level of discipline. Succeeding incidents of excessive absenteeism will result in discipline at the next level up.

If an employee fails to report for work for three consecutive days without any notification to his or her supervisor, that employee will be considered to have abandoned his or her employment and to have quit without notice.

Individuals with disabilities may be granted reasonable accommodation in complying with Part II, Section A of this Handbook; however, regular attendance and promptness are considered part of each employee's essential job functions.

Section G. 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 as approved by the FBC and deposited in the Tribal account or Tribe's inventory.

Section H. 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.

Section I. 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. 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.

Direct Supervisor-Subordinate Relationships. For these reasons, supervisors are prohibited from having an intimate relationship with a subordinate employee. For purpose of this policy, an "intimate relationship" is defined as an interpersonal relationship that involves physical or emotional intimacy and includes, without limitation, dating or sexual relations. This policy applies to direct supervisor-subordinate relationships.

Employees Separated by Two or More Levels. Two employees separated by two or more levels in the chain of command may have an intimate relationship, but the employee at the higher level shall not affect the terms and conditions of the subordinate and may not participate in a decision regarding the subordinate unless the terms and conditions or decision apply to a group of employees rather than solely the subordinate.

Duty to Report. 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 Manager immediately to ensure that this policy is followed.

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 Manager 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 Manager.

Section J. Recordings

No audio or video or other recordings in the workplace are allowed unless 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 authorities to obtain authorization to record work activities.

PART VII – 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 a verbal reprimand, a written reprimand, a suspension up to a maximum of 30 days and with or without pay, or demotion to a lower level position within the same department. While one or more of these forms of discipline may be taken in connection with a particular employee, no formal order or procedure is necessary. Disciplinary action may start at the level deemed most appropriate by management based on the seriousness of the violation.

Verbal or written reprimands must be approved in writing by the Department Director or Manager on the form attached to this Handbook as Appendix E. All other disciplinary action must be approved in writing by the Department Director or Manager, the Tribal Administrator and the Human Resources Manager on the form attached to this Handbook as Appendix F. Discipline of a Department Director or Manager or the Human Resource Manager shall be issued by the Tribal Administrator on a form substantially like Appendix F after consultation with the Tribal Chairman and does not need any concurrence. Discipline of the Tribal Administrator shall be done by the Tribal Chairman or his or her designee on a form substantially like Appendix F and does not need any concurrence.

Section B. Termination of Employment and Rehire

1. Voluntary Termination (Resignation)

- a) Voluntary termination 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) Notification to resign must be forwarded to the Human Resource Office immediately.
- d) All travel to, and attendance at, training sessions, conferences or participation at 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 Including Layoff**

- a) All seasonal/intermittent, temporary, or emergency 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) A layoff from employment may occur due to a reorganization, downsizing, expiration of employment contract, lack of funds and will be executed with as much advance notice to the employee as possible.
- d) Employment applications of laid off employees will be placed in the active applications file for re-employment if requested by the employee.

3. **Authorization for Involuntary Termination**

- a) All involuntary terminations, including layoffs, must be approved in writing by the Tribal Administrator and Human Resources Manager. The Department Director or Manager shall present the reason(s) for termination to the Tribal Administrator and Human Resources Manager, 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;
 - 3) Evidence of attempts to improve employee performance or other attempts to rectify the employee's poor performance or violations for policy or procedure;
 - 4) A draft letter notifying the employee of the proposed termination.
- b) If the Tribal Administrator and Human Resources Manager cannot agree, written approval by two officers of the Business Council will be required for such action.

4. **Involuntary Termination - Personnel Action Form**

- a) If an involuntary termination request is approved, the Human Resource Office will immediately process the Personnel Action Form and forward necessary termination papers to the Finance Department and Tribal Administrator.

- b) The Tribal Administrator will immediately provide a copy of the Personnel Action Form documenting the decision to terminate to the Department Director or Manager and any other involved supervisor.

5. Termination Procedure

Guidelines for involuntary terminations:

- a) The Human Resources Manager 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.
- b) Immediately disable the terminated employee's network access and retrieve any keys, access cards, IDs, or other physical access devices.
- c) Perform an exit interview.
- d) Arrange for the return of any off-site equipment that the ex-employee may possess, such as laptops/notebooks, documentation, cell phones, PDAs, etc.
- e) Notify the employee that their final paycheck, including payments for any payable leave benefit, will be mailed to them within 5 working days (unless the terminated employee makes arrangements (other than mailing) with the Finance Department).
- f) 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.
- g) Escort the ex-employee off the premises.
- h) 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.
- i) It is recommended in situations where an involuntary 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.

In cases of voluntary terminations:

- a) 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.

- b) 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 employee's supervisor and the Human Resources Manager if it is in the best interests of all involved parties.
- c) 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 within 5 working days of discharge. 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.
- b) 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.
- c) 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.
- d) 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**

- a) **Rehire Process.** 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:
 - 1) 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.
 - 2) Human Resources will review applicant's work history with the Tribe. Special attention will be paid to applicants whose past supervisor have indicated that they would not rehire. All such information must

be identified and brought to the attention of the interview panel and the position supervisor. Human Resources will provide the following information:

- i. Positions held and when;
 - ii. Termination type;
 - iii. Reasons for termination;
 - iv. Any circumstances out of the ordinary that existed during the applicants past employment with the Tribe that resulted in the termination;
 - v. Whether applicant was recommended for rehire;
 - vi. A summary of exit documents associated with each position;
 - vii. A summary of performance evaluations.
- 3) The interview panel will have the above information available during the interview process. The panel will ask questions of the applicant related to this information during the interview. The panel then determines whether 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.
- b) **Individuals Not Suitable for Rehire.** The following individuals are not eligible for re-employment with the Tribe for a specified time period:
- 1) 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.
 - 2) 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.
 - 3) Employees terminated for violation of the Drug and Alcohol provisions of the Employment Handbook are not eligible for 12 months.

Additional bases for not rehiring may be added by FBC on a case-by-case basis.

8. References

Employment references are not provided by the Tribe. The Human Resources Manager 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 Department Director or Manager, 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 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, such as a reprimand, suspension, or demotion, 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 calendar 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 work 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 Chairman will address the grievance in place of the Tribal Administrator.

Members of FBC who are Tribal employees, and Tribal employees who are directly supervised by either FBC or any member of FBC, who wish to challenge a discipline should follow the procedures set forth below for grievances to FBC.

2. Grievance to Fallon Business Council

Any employment 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 calendar 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 5 business days before the hearing, in substantially the form of Appendix J, 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 days before the hearing.

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 Chairman shall decide how to proceed unless FBC acts to resolve 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 a spouse, child, parent, sibling, or grandparent of a member of FBC, that FBC member may not participate in or attend any of the grievance proceedings, except to present management's position or as a witness, if applicable. If the Chairman was directly involved in the termination being challenged or the grievance involves a family member as defined in this paragraph, 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 Chair will ensure that each FBC member has a copy of the grievance. FBC will convene in executive session to review and consider any evidence submitted by the grievant or management. The Tribal Administrator and Human Resources Manager will be present to answer any questions FBC may have. The grievant will not be present.
- b) Next, the Chair will invite the grievant into the hearing, read the written grievance out loud and explain the order of presentation set forth in Step 3 below and the decision-making process, including the burden of proof, described in Steps 4 and 5 below.
- c) Next, the parties will present their position as follows:
 - i. management case in chief up to 30 minutes;

- ii. grievant case in chief up to 30 minutes;
- iii. management rebuttal up to 10 minutes;
- iv. grievant 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.

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.

- 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:

- i. reinstatement to the position from which the grievant was terminated;
- ii. 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;

- iii. a form of discipline for the circumstances that led to the termination;
and
- iv. performance probation.

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.

- e) 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.

During this performance probationary period, the employee may be terminated without cause and without warning. Managers and 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.

Employees on performance probation are entitled to the same benefits enjoyed prior to the performance probation.

- f) Within 7 days of the close of the hearing, a written decision of FBC will be delivered to the grievant that states whether the termination was justified or not, and what relief will be granted, if any.

FBC reserves the right to change this Section 3.

Employee Acknowledgment

By signing below, I acknowledge:

- I have received a copy of the Fallon Paiute-Shoshone Tribe Employee Handbook and understand that it sets forth terms and conditions of my employment;
- it is my responsibility to read and abide by the rules, policies and standards set forth in the Employee Handbook;
- without limiting the foregoing, I specifically acknowledge the terms and conditions of Part III, Sections B and C regarding confidentiality, and Part II, Section E regarding Background Investigations, and Appendix G 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;
- 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;
- no oral or written statements or representations regarding my employment can alter the foregoing.

PRINT Employee Name

Employee Signature

Date

APPENDIX A – PERSONNEL REQUISITION FORM



FALLON PAIUTE-SHOSHONE TRIBE PERSONNEL REQUISITION FORM

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

Job Title: _____

Program: _____
(Department and Regular Worksite)

Supervisor(s): _____

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

Working Hours Designation

- Full-Time (40 hours a week)
- Part-Time (# of hours a week: _____)

Salary Information

- Non-Exempt
- Exempt

Employment Status

- Regular Status Position
- Temporary
- Seasonal/Intermittent Position
- Emergency

Posting Time Status

- Standard (10 working days)
- Open Until Filled

Vacancy: Yes No **If yes,** person replaced: _____

New Position: Yes No **If yes,** state reason: _____

Signature of Department Director or Manager Title Date

FPST Human Resources Use Only

Date Posted: _____ Human Resources Manager Initials: _____

Closing Date: _____ Treasurer Initials: _____

Effective: July 31, 2017

APPENDIX B – DRIVER GUIDELINES/QUALIFICATIONS

DRIVER GUIDELINES/QUALIFICATIONS

Drivers with the following motor vehicle records are not acceptable:

- Two (2) at fault accidents within the past 36 months
- One (1) major violation within the past 36 months
- More than two (2) minor violations in the past 12 months

Major violations are considered:

- Driving under the influence of alcohol or drugs
- Exceeding the speed limit by more than 25 mph
- Failing to report an accident
- Filing a false report to the department of motor vehicles or insurance company
- Committing a felony with a vehicle
- Fraudulent use of a driver's license
- Committing a homicide involving a vehicle
- Leaving the scene of an accident
- Committing manslaughter with a vehicle
- Passing a school bus
- Participating in racing or dragging
- Illegal possession of a controlled substance

WHISTLEBLOWER POLICY

Fallon Business Council

Whistleblower Protection

Any Tribal employee 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.

How to Report

A report of illegal activity or gross mismanagement shall be submitted on the form attached to this policy to the FBC Secretary. If the report concerns the FBC Secretary, it may be submitted to the FBC Chairman. The report should include as much detail as possible.

FBC Action

The FBC Secretary shall provide copies of the report to the other members of FBC. Within 10 business days of receiving the report, FBC shall have a closed session meeting that is not recorded to consider the report. At that meeting, 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 Employment Handbook 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 business days of the completion of the investigation and receipt of the investigative report, 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 FBC is final and not subject to review by any court.

In the event FBC considers disciplining or terminating an employee as a result of a whistleblower complaint, 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 Part VII Section C, 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 within 5 business days of that decision.

Investigation

If 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, 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.

Confidentiality

To the extent possible, 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.

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.

Limitations

This policy only applies to Tribal employees. To the extent Tribal members who are not employees have matters they wish to bring to the attention of FBC, Tribal members may present those matters at FBC meetings or in a less formal manner.

If the whistleblower report is brought by or concerns a spouse, child, parent, sibling, or grandparent of a member of 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.

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

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:

Evidence [attach any proof]:

Law Violated [if any]:

Tribal Secretary Signature

Date

Effective: July 31, 2017

APPENDIX D – LEAVE REQUEST

LEAVE REQUEST

Name _____
 Program _____
 Date of Request _____
 Pay Period Ending _____

Available Vacation Hours _____
 Available PTO Hours _____
 ANY LEAVE TAKEN IN EXCESS OF ACCUMULATED
 LEAVE WILL BE LEAVE WITHOUT PAY

VACATION LEAVE

FROM:	TO:	NUMBER OF HOURS
Date: _____ Time _____	Date: _____ Time _____	_____
Date: _____ Time _____	Date: _____ Time _____	_____
Date: _____ Time _____	Date: _____ Time _____	_____

PERSONAL TIME OFF (PTO):

FROM:	TO:	NUMBER OF HOURS
Date: _____ Time _____	Date: _____ Time _____	_____
Date: _____ Time _____	Date: _____ Time _____	_____
Date: _____ Time _____	Date: _____ Time _____	_____

OTHER LEAVE: _____

FROM:	TO:	NUMBER OF HOURS
Date: _____ Time _____	Date: _____ Time _____	_____
Date: _____ Time _____	Date: _____ Time _____	_____
Date: _____ Time _____	Date: _____ Time _____	_____

REMARKS

<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED	Employee Signature _____	Date _____
	Director/Administrator _____	Date _____

Effective: July 31, 2017

APPENDIX E – DISCIPLINE: VERBAL OR WRITTEN REPRIMAND

DISCIPLINE: VERBAL OR WRITTEN REPRIMAND

Today's Date: _____

Name of person subject to discipline:

Job title of person subject to discipline:

Reason for Discipline [note: attach evidence supporting the reason for discipline, if any]:

Form of Discipline:

Signature of Department Director or Manager: _____

Print Name and Title: _____

[To be signed before presentation to employee]

Signature of Employee subject to discipline: _____

[acknowledging receipt]

Effective: July 31, 2017

APPENDIX F – MAJOR DISCIPLINE

MAJOR DISCIPLINE

Today's Date: _____

Name of person subject to discipline:

Job title of person subject to discipline:

Reason for Discipline [note: attach evidence supporting the reason for discipline, if any]:

Form of Discipline:

Signature of Department Director or Manager _____
Print Name _____

Print Name _____
Title _____

Signature of Tribal Administrator _____
Print Name _____

Signature of Human Resources Manager _____
Print Name _____

[To be signed before presentation to employee]

Signature of Employee subject to discipline: _____
[acknowledging receipt]

APPENDIX G – DRUG & ALCOHOL TESTING POLICY AND PROCEDURES

DRUG & ALCOHOL TESTING POLICY AND PROCEDURES**Section A. Philosophy and Purpose**

FBC believes in and is committed to providing a safe work environment that is free from the harmful effects of substance abuse.

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.

The consequences of a positive test result are outlined in this Appendix G.

Section B. Testing Categories

Drug and alcohol testing will be conducted under the following circumstances:

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.

If the test is positive, Human Resources Manager shall notify the applicant of the results of the test.

A positive test disqualifies an applicant for employment with the Tribe for a period of 6 months from the date of the positive test. Human Resources shall dispose of records of positive drug tests that occurred more than 6 months prior.

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.

The drug and alcohol test must be performed within 2 hours of the accident.

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

The accident report required by Part III, Section V 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, an illegal drug or misuse of a prescribed drug.

Prior to requiring such test, the Department Director or Manager must identify behavior or other evidence which supports a reasonable suspicion the employee is under the influence of drugs 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 Department Director or Manager must complete a Reasonable Suspicion Report form, attached to this Policy, and submit it to the Human Resources Manager.

The Department Director or Manager must also ensure there are no drugs, drug paraphernalia, or alcohol in the work area and provide any such property to the Tribal Police Department.

If the circumstances of reasonable suspicion are based in whole or in part on an accident, a written accident report should be prepared as set forth in Section III, Part V of the Employee Handbook.

4. **Random**

At least four times per year, at least 10% of the employees will be selected randomly and subjected to drug and alcohol testing. The Human Resources Manager 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 Manager will coordinate with the Department Directors and Managers 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 Department Director or Manager 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. The Human Resources Manager and Department Director or Manager shall ensure that the Continued Employment Plan is followed.

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 Manager, the Department Director or Manager shall inform the Human Resources Manager 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 Department Director or Manager shall contact the testing facility to schedule a test.
3. The Tribe will provide transportation 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 Manager only.
8. The Human Resources Manager will communicate the positive test result to the involved Department Director or Manager 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 Manager 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 Manager 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.

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, any investigation is occurring, or during the pendency of an appeal, may be paid in the discretion of the Department Director or Manager.

Section D. Prohibitions

The following conduct is prohibited:

1. The use, possession, sale, distribution or being under the influence of illegal drugs 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 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 or alcohol-related crime on or off the job.

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

Medical and recreational marijuana use is prohibited. The use of other drugs lawfully obtained and properly used is permitted. Any employee taking 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 Manager 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 and personal property on Tribal premises. Employees are required to cooperate when searches are conducted.

Section H. Required Notification of Conviction

Employees are required to notify Human Resources of any such conviction no later than 5 calendar days after such conviction. If required, upon receiving notice of such conviction, management shall provide written notification to the governmental agency for each grant on which the convicted employee was working.

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 (CEP). Refusal by the employee to agree, or failure by the employee to comply, with all terms and conditions of the CEP 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 Resource Manager and Department Director or Manager.
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.
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 for up to 12 months following the employee's return to work.

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.

In the Tribal Administrator's discretion, in consultation with the Human Resources Manager and the Department Director or Manager, a leave of absence may be granted to employees who enter into a CEP.

Section J. Consequence of All Other Policy Violations

Except for employees who enter into a CEP after a first violation, any employee who is found in violation of any policy prohibitions will be terminated.

Any 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.

Section K. 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 Manager 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 Manager 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.

APPENDIX H – CONTINUED EMPLOYMENT PLAN

CONTINUED EMPLOYMENT PLAN

I have reviewed this with my Department Manager or Director and agree as follows:

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| | Employee
Initials |
| 1. I acknowledge 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 Resource Manager and Department Director or Manager 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 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 up to 12 months following my return to work. | _____ |

PRINT Employee Name

Employee Signature

Date

Signature of Human Resources Manager: _____

Signature of Department Director or Manager: _____

Effective: July 31, 2017

APPENDIX I – REASONABLE SUSPICION REPORT

REASONABLE SUSPICION REPORT

Date: _____

Employee Suspected of Being Under the Influence of Alcohol or Drugs:

Specific Observed Behavior or Other Evidence to Reasonably Suspect Drug or Alcohol Use:

Details of Accident (if applicable):

Witnesses (attach any witness statements):

Signature of Department Director or Manager: _____

Print Name and Title: _____

Effective: July 31, 2017

APPENDIX J – NOTICE OF GRIEVANCE

NOTICE OF GRIEVANCE

To: _____
[grievant]

And To: _____
[Tribal Administrator]

And To: _____
[HR Manager]

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 business days before the grievance hearing. Any evidence not delivered by mail or hand-delivered by 3 business 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.

Effective: July 31, 2017