

Vision and Mission Statement of the Pyramid Lake Paiute Tribe

VISION

The Pyramid Lake Paiute Tribe envisions an ideal lifestyle where its enrolled members prosper physically, emotionally, spiritually, and economically. Our vision is to increase and use cultural knowledge and experience to protect and preserve the natural resources of the Pyramid Lake and Northern Paiute homelands. We endeavor to foster individual growth and personal responsibility through education and economic opportunity.

MISSION

The Pyramid Lake Paiute Tribal Council is dedicated to creating a respectful environment that inspires values; protects and preserves our cultural and traditional heritage; supports tribal self-sufficiency; promotes emotional and spiritual wellness; and encourages innovation and positive leadership. We aspire to achieve through trusted cooperation, coordination, and collaboration with local, regional, and national communities, and with individuals and organizations who aim to achieve similar goals of the Tribe and its community.

Adopted by the Pyramid Lake Tribal Council
on January 18, 2008



It is the mission of the Human Resources Department of the
Pyramid Lake Paiute Tribe to...

Partner with all Tribal departments and programs to attract,
develop, motivate, and retain a diverse workforce of qualified
employees who seek to improve Tribal services for our
community members.

Provide leadership skills and guide employees in promoting a
positive work environment by providing access to available
resources that will help to achieve success according to the
vision of the Tribe.

Create understanding in the development and application of
policies, benefits, and training opportunities that foster a spirit of
individual growth, empowerment, responsibility, trust and respect.

Our values of continuous improvement, teamwork, and achieving
results are woven into every aspect of Human Resources
management.

**PYRAMID LAKE PAIUTE TRIBE
PERSONNEL POLICIES & PROCEDURES**

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SECTION 1. GUIDING PRINCIPLES OF EMPLOYMENT

1-1. PURPOSE

The purpose of this manual is to establish a system of personnel administration that meets the social, economic, and program needs of the Pyramid Lake Paiute Tribe. This system provides a means to recruit, select, develop and maintain an effective and responsive work force, and includes policies and procedures for employee hiring and advancement, training and career development, position classification, salary administration, fringe benefits, disciplinary action, grievance and appeal processes, and separations. All appointments and promotions under the provisions of this manual will be based on qualifications and suitability. The Tribal Council of the Pyramid Lake Paiute Tribe will have the authority to establish and change personnel policies. The guiding personnel principles for the Pyramid Lake Paiute Tribe Personnel System will be:

- A. To provide equal employment opportunity and treatment regardless of race, color, religion, sex, national origin, age, military status, or disability in aspects of personnel administration with proper regard for privacy and other constitutional rights.
- B. To recruit, select and advance employees on the basis of their relative knowledge, abilities, and skills.
- C. To provide compensation and benefits commensurate with the work performed.
- D. To offer training opportunities to assure high-quality performance.
- E. To retain employees on the basis of satisfactory work performance, correcting unsatisfactory performance, and separating employees due to unsatisfactory performance and/or unacceptable conduct.
- F. To assure that employees are protected against coercion in political activities.
- G. To monitor and comply with applicable laws and regulations concerning employee safety.
- H. To be receptive to constructive suggestions that relate to the job, working conditions, or personnel policies and procedures.
- I. To establish appropriate means for employees to discuss matters of interest or concern with their immediate supervisor or department head.
- J. To require all supervisors to enforce these Personnel Policies and Procedures in matters pertaining to personnel management and administration. Questions regarding personnel procedures will be referred to the Human Resources Department for clarification and other assistance as needed.

1-2. SOVEREIGN IMMUNITY

The Pyramid Lake Paiute Tribe is a sovereign nation, organized by a Tribal Constitution for the economic, general welfare, and continued advancement of its people. Nothing contained in these Personnel Policies shall in any way be construed as a waiver or diminishment of the sovereign immunity of the Pyramid Lake Paiute Tribe, or the immunity of the Tribe's officers, employees, agents and/or representatives when acting in their official capacities.

1-3. EQUAL EMPLOYMENT OPPORTUNITY

The Tribe is firmly committed to the policy of non-discrimination, equal opportunity and reasonable accommodation in employment. This means there can be no discrimination in any condition of employment including recruitment, hiring, discipline or termination, opportunities for advancement, participation in training programs, transfers, wages, salaries or benefits. Equal opportunity means that all qualified individuals have an equal chance to compete for job opportunities within the Tribe, regardless of race, color, religion, sex, national origin, age, military status or disability.

The Tribe will offer reasonable accommodation that does not cause undue hardship to qualified applicants and employees with a known disability or for an employee's religious beliefs.

1-4. INDIAN PREFERENCE

To the extent feasible, qualified Indian applicants will be given preference in hiring. This policy is in keeping with the inherent sovereignty of the Tribe and the intent of the Indian Self-Determination and Education Assistance Act, and Title VII of the Civil Rights Act, Section 703 (i).

1-5. ETHICS

The Tribal government derives its power from its Constitution and By-Laws, and from the Tribal membership. Ethics in government are the foundation on which the structure of the government rests. Tribal officials and employees hold a public trust that obligates them, in a special way, to honesty and integrity in fulfilling their responsibilities to which they are elected, appointed and/or hired. The Tribe's membership expects all Tribal officials and employees to perform their public responsibilities in accordance with the highest ethical and moral standards and to conduct the business of the Tribe only in a manner that advances the membership interest.

Employees are judged not only by official actions and conduct, but also by personal activities, which are work related. The Tribe relies on employees as representatives to perform Tribal business properly, to protect Tribal interests, and to meet high standards of public service.

Tribal employees all share the responsibility for ensuring that the highest standards of ethical conduct are maintained throughout the Tribal government. Employees are required to exercise judgment to avoid misconduct and conflict of interest situations. Department Heads and Supervisors must apply ethical standards to the work supervised.

All employees shall: be courteous and helpful to Tribal members and persons conducting business with the Tribe; dress in a manner appropriate to the position of employment; observe job requirements in a professional manner; follow the proper lines of authority in employment related matters.

1-6. COURTESY AND CONSIDERATION OF OTHERS

Employees of the Tribe must demonstrate courtesy, consideration, and promptness in dealing with the public while carrying out official responsibilities and in daily interaction with co-workers. Actions which deny the dignity of individuals or conduct which is disrespectful to others must be avoided. Malicious gossip, hearsay, confrontations, and general lack of cooperation in a work environment will not be tolerated.

1-7. EMPLOYEE DRESS AND PERSONAL APPEARANCE

Employees are expected to report to work well-groomed, clean, and dressed according to the requirements of the position. Some employees may be required to wear uniforms or safety equipment/clothing. A supervisor will advise employees of specific information regarding acceptable attire for the work performed. Employees who report to work dressed or groomed inappropriately may be prevented from working until they can return to work well groomed and wearing the proper attire.

In the interest of safety and professionalism, employees shall observe the following:

- A. All clothing will be clean and pressed. Dress or skirt length must be no more than 3 inches above the knee. Inappropriate exposure to cleavage (plunging necklines), midriffs, or other styles which are not appropriate for an office environment are prohibited.
- B. Hair, beards, and mustache shall be neatly groomed.
- C. Open-toed shoes are acceptable. These shoes may be prohibited in departments where safety and workplace requirements dictate. "Flip-Flops" and thongs are not acceptable.
- D. Employees should not wear tight fitting clothing, such as Lycra Spandex or "Tube Tops" or other dress that is not consistent with department standards.
- E. Employees may not wear clothing that contains offensive wording, drawings, advertising artwork, or photos in the workplace.
- F. Employees must cover tattoos that are offensive or suggestive.
- G. Any make-up, application of cologne and related personal hygiene products are to be applied or worn with restraint and consistent with department dress standards.
- H. Employees shall practice acceptable oral and personal hygiene consistent with generally accepted social practices.

1-8. EMPLOYMENT OF RELATIVES

A family relationship among employees can create an actual or at least a potential conflict of interest in the employment setting, especially where one relative supervises another relative. To avoid this problem, the Tribe can refuse to hire or place a relative in a position where the potential for favoritism or conflict does not exist.

In other cases, such as personal relationships where a conflict or the potential for conflict arises, even if there is no supervisory relationship involved, the parties may be separated by reassignment or terminated from employment following a review of applicable policies.

If two employees marry, become related, or enter into an intimate relationship, they cannot 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 generally will attempt to identify other available positions, but if no alternate position is available, the Tribe retains the right to decide which employee will remain with the Tribe.

For purposes of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage.

No hiring authority shall participate in the selection process, disciplinary, or personnel action when a member of his/her immediate family is involved.

1-9. HARASSMENT PROHIBITION

It is the Tribe's policy to prohibit intentional harassment of any individual by another person on the basis of any protected classification.

The Tribe is committed to maintaining a work environment that is free of discrimination. In keeping with this commitment, the Tribe will not tolerate harassment of its employees by anyone, including any supervisor, co-worker, visitor, vendor, client or customer.

Harassment consists of unwelcome conduct, whether verbal, physical, or visual, that is based upon a person's protected status, such as race, color, national origin, disability, religion, marital status, sexual orientation, age or other protected group status. The Tribe will not tolerate harassing conduct that affects tangible job benefits, that interferes unreasonably with an individual's work performance or that creates an intimidating, hostile, or offensive working environment.

1-10. SEXUAL HARASSMENT

It is the Tribe's policy to prohibit harassment of any employee by any supervisor, employee, customer or vendor on the basis of sex or gender. The purpose of the policy is to ensure that all Tribal employees are free from sexual harassment. While it is not easy to define precisely what types of conduct constitute sexual harassment, examples of prohibited behavior include unwelcome sexual advances, requests for sexual favors, and other physical, verbal or visual conduct based on sex constitute sexual harassment when (1) submission to the conduct is an explicit or implicit term or condition of employment, (2) submission to or rejection of the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment may include explicit sexual proposition, sexual innuendo, suggestive comments, sexually oriented "kidding" or "teasing", "practical jokes", jokes about gender-specific traits, foul or obscene language or gestures, displays of foul or obscene printed or visual material, and physical contact, such as patting, pinching, or brushing against another's body. Sexual harassment can include the act of one person touching another.

All employees are responsible for helping to assure that harassment is avoided. If an employee believes he or she has witnessed or experienced harassment, the incident should be promptly reported to an immediate supervisor or Human Resources staff. If for any reason that action seems inappropriate, report it immediately to the Tribal Chairman or to any management representative with whom the employee would feel most comfortable. All instances of harassment can be reported in strictest confidence and will result in prompt action.

The Tribe's policy is to investigate all such complaints thoroughly and promptly. To the fullest extent practical, the Tribe will keep complaints and the terms of their resolution confidential. If an investigation confirms that harassment has occurred, the Tribe will take corrective action, including such discipline up to, and including, immediate termination of employment, as is appropriate.

Any employee reporting an instance of harassment will not be subject to any punitive action. Retaliatory action taken by an employee due to a filed complaint will not be tolerated and can lead to immediate termination of employment.

1-11. WORKPLACE VIOLENCE PREVENTION

The Tribe is strongly committed to providing a safe workplace. The purpose of this policy is to minimize the risk of personal injury to employees and damage to Tribal and personal property. The safety and security of all employees is of primary importance. Threats, threatening language or any other acts of aggression or violence made toward or by any Tribal employee will not be tolerated. For purposes of this policy, a threat includes any verbal or physical harassment or abuse, any attempt at intimidating or instilling fear in others, menacing gestures, flashing of weapons, stalking or any other hostile, aggressive, injurious or destructive action undertaken for the purpose of domination or intimidation. Violations of this policy will lead to corrective action up to, and including, termination and/or referral to appropriate law enforcement agencies for arrest and prosecution. The Tribe reserves the right to take any necessary legal action to protect its employees.

Any person who makes threats, exhibits threatening behavior, or engages in violent acts on Tribal premises shall be removed from the premises as quickly as safety permits and shall remain off company premises pending the outcome of an investigation. Following investigation, the Tribe will initiate an immediate and appropriate response. This response may include, but is not limited to, suspension and/or termination of any business relationship, reassignment of job duties, suspension or termination of employment, and/or criminal prosecution of the person or persons involved.

All employees are responsible for notifying management of any threats that they witness or receive or that they are told another person witnessed or received. Even without a specific threat, all employees should report any behavior that they have witnessed and believe is potentially threatening or violent or which could endanger the health or safety of an employee. Employees are responsible for making this report regardless of the relationship between the individual who initiated the threatening behavior and the person or persons being threatened. The Tribe understands the sensitivity of the information requested and has developed confidentiality procedures that recognize and respect the privacy of the reporting employee.

1-12. MANDATED REPORTERS

The Indian Child Protection and Family Violence Prevention Act and the Crime Control Act of 1990, as amended, requires that educational, medical, mental health, child care, social services and law enforcement personnel immediately report child abuse. Any person, while in a professional capacity or activity, who learns of facts that give reason to suspect that a child has suffered an incident of child abuse, shall as soon as possible (within 1 hour) make a written report of the suspected abuse to the appropriate Law Enforcement and Social Service agencies.

Mandated reporters who learn of facts that give reason to suspect that a child has suffered an incident of child abuse; know or have a reasonable suspicion that a child was abused; or know that actions are being taken or will be taken that would reasonably be expected to result in the abuse of a child must make a child abuse report. Mandated reporters who fail to make a timely report of child abuse may be fined up to \$5,000 and/or imprisoned up to 6 months in jail. Any supervisor or person in authority who inhibits or prevents a Mandated reporter from making a report may be fined up \$5,000 and/or imprisoned up to 6 months in jail.

Any person making a child abuse report shall be immune from civil or criminal liability for making that report as long as the report is based upon their reasonable belief and the report is made in good faith.

1-13. DRUG-FREE WORKPLACE

To help ensure a safe, healthy and productive work environment for employees and others, to protect Tribal property, and to ensure efficient operations, the Tribe has adopted a policy of maintaining a workplace free of drugs and alcohol. This policy applies to all employees and other individuals who perform work for the Tribe.

The unlawful or unauthorized use, abuse, solicitation, theft, possession, transfer, purchase, sale or distribution of controlled substances, drug paraphernalia or alcohol by an individual anywhere on Tribal premises, while on Tribal business or while representing the Tribe, is strictly prohibited. Employees and other individuals who work for the Tribe also are prohibited from reporting to work or working while they are using or under the influence of alcohol or any controlled substances.

Violation of this policy will result in disciplinary action, up to and including termination. The Tribe encourages employees to seek assistance before their substance abuse or alcohol misuse renders them unable to perform the essential functions of their jobs, or jeopardizes the health and safety of any Tribal employee, including themselves.

1-14. HEALTH AND SAFETY

The Tribe intends to comply with health and safety laws applicable to business. To this end, the Tribe relies upon employees to ensure that work areas are kept safe and free of hazardous conditions.

Employees are required to be conscientious about workplace safety, including proper operating methods, and recognize dangerous conditions or hazards. Any unsafe condition or potential hazards should be reported to management immediately, even if the problem appears to be corrected.

1-15. SECURITY INSPECTIONS

The Tribe provides security for its property, employees and visitors. For security purposes, the Tribe reserves the right to require employees while on Tribal property, or on client property, to agree to the inspection of their persons, personal possessions and property, personal vehicles parked on Tribal or client property, and work areas. This includes lockers, vehicles, desks, cabinets, work stations, packages, handbags, briefcases and other personal possessions or places of concealment, as well as personal mail sent to the Tribe or to its clients. Employees are expected to cooperate in the conduct of any search or inspection.

1-16. USE OF FACILITIES, EQUIPMENT AND PROPERTY

Employees are provided adequate tools, equipment and vehicles to perform their job. Equipment essential in accomplishing job duties is often expensive and may be difficult to replace. When using property, employees are expected to exercise care, perform required maintenance, and follow all operating instructions, safety standards and guidelines.

It is the responsibility of employees to notify a supervisor if any equipment, machines, or tools appear to be damaged, defective, or in need of repair. Prompt reporting of loss, damages, defects, and the need for repairs could prevent deterioration of equipment and possible injury to employees or others.

Employees also are prohibited from any unauthorized use of the Tribe's intellectual property including, but not limited to, audio and video tapes, digital recordings, print materials and software.

Improper, careless, negligent, destructive, or unsafe use or operation of equipment can result in discipline, up to and including termination.

1-17. OPERATION OF VEHICLES

All employees authorized to drive Tribal-owned or leased vehicles or personal vehicles while conducting Tribal business must possess a current, valid driver's license and an acceptable driving record. Any change in license status or driving record must be reported to management immediately. When an employee is granted approval to use a personal vehicle for conducting Tribal business, the employee must provide proof of personal automobile liability coverage.

Driving records will be checked to ensure that employees have an acceptable record to operate Tribal vehicles. Any driver with a poor driving record will immediately be relieved of driving privileges. Any major violation is automatically considered a poor driving record. Major violations are defined as the following: DWI in past 3 years, failure to stop/report an accident, reckless driving/speed contest, driving while impaired, making a false accident report, homicide, manslaughter or assault arising from the use of a vehicle, driving while license is suspended/revoked, careless driving, attempting to elude a police officer, and leaving the scene of an accident. There are other reasons that an employee can be relieved of driving privileges, such as permitting other persons not listed on the Tribe's driver list to operate vehicles under their control or assigned to them, failure to consistently drive in a safe manner as determined by management, failure to pass or refuse to take a drug and alcohol screening test, failure to notify management within 1 business day of any moving violation and/or accident, and transporting unauthorized passengers in Tribal vehicles.

A valid driver's license must be in possession while operating a vehicle off or on Tribal property. It is the responsibility of every employee to drive safely and obey all traffic, vehicle safety, and parking laws or regulations. Any accident involving a Tribal vehicle or a personal vehicle while conducting Tribal business, must be reported immediately to the appropriate law enforcement agency and to the employee's supervisor.

Tribal vehicles are to be used for business only. Personal use of a Tribal vehicle is prohibited. Personal trailers, including boat and recreational vehicles, are not to be pulled. Tribal vehicles may be driven home only if approved by the immediate supervisor and Tribal Chairman.

Employees with cellular phones must refrain from using their phones while driving. Safety must come before all other concerns. Regardless of the circumstances, including slow or stopped traffic, employees should proceed to a safe location off the road and safely stop the vehicle before placing or accepting a call. Since this policy does not require any employee to use a cellular phone while driving, employees who are charged with traffic violations resulting from the use of their phones while driving will be solely responsible for all liabilities that result from such actions.

1-18. USE OF TELEPHONES AND CELLULAR TELEPHONES

Office telephones are a vital part of the Tribe's governmental operation. Because of the large volume of business transacted by telephone, personal use of the telephone should be limited and brief. Personal long distance calls must be billed to the employee's home phone, credit card or placed collect. Employees are not to accept collect calls from any person while having access to Tribal phones. This activity will be subject to corrective action, up to and including termination.

Cellular telephones are furnished to certain employees in connection with their job duties. Employees who are issued cellular telephones by the Tribe should make all business-related long distance telephone calls from their cellular telephone while traveling. Employees need to limit personal use of their cellular telephone in the same way they need to limit personal use of their office telephone. Employees that have excessive cellular usage for personal calls will be subject to corrective action, up to and including termination.

1-19. USE OF COMMUNICATION AND COMPUTER SYSTEMS

Tribal communication and computer systems are intended for business purposes and may be used only during working time. This includes the voice mail, e-mail and Internet systems. Inappropriate use may subject employees to discipline, up to and including termination. Inappropriate use includes: use of computer systems in violation of any Tribal policy; use of computer systems to create, send or receive messages, pictures or computer files that are fraudulent, illegal, pornographic, obscene, sexually suggestive, insulting, sexist, racist, discriminatory or harassing; use of the computer systems to conduct illegal activities; loading software that is not approved in advance by management; making illegal copies of licensed software; using software that is designed to destroy data, provide unauthorized access to the Tribal computer or communications equipment, or which would disrupt Tribal computer or communication equipment in any way; using the Tribal e-mail and voicemail systems for personal business.

Any message or file created, stored and/or sent using the Tribal computer or communications equipment is Tribal property. Employees should therefore have no expectation of privacy in any message stored, received or sent using Tribal equipment.

The Tribe may access the communication and computer systems without notice to users of the system in the ordinary course of business. The reasons for which the Tribe may obtain such access include, but are not limited to: maintaining the system; preventing or investigating allegations of system abuse or misuse; assuring compliance with software copyright laws; complying with legal and regulatory requests for information; and ensuring that Tribal operations continue appropriately during an employee's absence.

Since the Tribe's communication and computer systems are intended for business use, all employees, upon request, must inform management of any private access codes or passwords. No employee may access, or attempt to obtain access to, another employee's computer systems without appropriate authorization.

1-20. BUSINESS EXPENSE REIMBURSEMENT

Employees may be reimbursed for reasonable expenses incurred in the course of business. These expenses must be approved by the supervisor, and may include air travel, hotels, motels, meals, cab fare, rental vehicles, and gas or car mileage for personal vehicles. All expenses incurred should be submitted with receipts in a timely manner. Employees are expected to exercise good judgment when incurring expenses and submit receipts in a timely manner.

1-21. CRIMINAL CONDUCT

Employees will not engage in any criminal conduct or conduct which, even though not criminal, may reflect adversely upon the Tribe. Activity of this nature will result in disciplinary action, up to and including termination.

1-22. WHISTLEBLOWER PROTECTION

Employees are required to report any reasonable belief or suspicion of waste, fraud, abuse, or mismanagement with respect to Tribal resources or violations of law. Tribal Administration will endeavor to maintain the confidentiality of those who report and witness such occurrences and protect them from retaliation. Reports of any wrongdoing contemplated by this policy shall be deemed made in good faith if the person reporting the same had reasonable grounds to believe or suspect that the wrongdoing occurred, even if that belief or suspicion should later prove unsubstantiated.

Employees may report occurrences under this policy in a confidential manner. Ordinarily, employees should report occurrences in writing to their supervisors or the Tribal Administrator. If these reporting relationships are impractical or inappropriate under the circumstances, then reports shall be made directly to the Tribal Chairman. All reports are to be filed in a timely manner and shall be given an initial evaluation for appropriate handling.

All reports shall be kept confidential to the fullest extent possible and consistent with the need to conduct an adequate investigation, prosecute any criminal charges that may arise, and inform the Tribal Council and management of weaknesses in internal controls and the need for corrective measures.

No employee who, in good faith, reports waste, fraud, abuse, mismanagement or a violation of law shall be subjected to any harassment, adverse employment consequences or other form of retaliation. Retaliation includes, but is not limited to, adverse job actions such as termination; denial of any bonus, benefit or training; reduction of salary or decrease in hours; or change in or transfer to a lesser position. An employee who retaliates against someone who has reported such an occurrence in good faith shall be subject to disciplinary action, up to and including termination of employment. Likewise, anyone who is found by the person(s) in charge of such investigations to have intentionally submitted a report knowing the same to be false and not in good faith shall be subject to appropriate disciplinary action.

Whistleblowers provide initial information related to a reasonable belief that an improper activity has occurred. The motivation of a whistleblower is irrelevant to the consideration of the validity of the allegations. Whistleblowers shall refrain from obtaining evidence for which they do not have a right to access. Such improper access may itself be considered an improper activity.

Whistleblowers have a responsibility to be candid with the Tribal Administrator, Tribal Chairman, investigators or others to whom they make a report of alleged improper activities and shall set forth all known information regarding any reported allegations. Persons making a report of alleged improper activities should be prepared to be interviewed by investigators.

1-23. CONFLICT OF INTEREST/MOONLIGHTING

It is the policy of the Tribe to allow its employees to engage in outside work or hold other jobs, subject to certain restrictions. The Tribe requires that employees' activities and conduct away from their regular position, must not compete, conflict with, or compromise Tribal interests or adversely affect job performance and the ability to fulfill Tribal responsibilities. This requirement, for example, prohibits employees from performing any services for Tribal customers on nonworking time that are normally performed by Tribal personnel. This prohibition also extends to the unauthorized use or application of any confidential trade information or techniques, including use of Tribal equipment or supplies in behalf of another employer. In addition, employees are not to solicit or conduct any outside business during paid working time.

Employee requests for permission to accept outside employment, including self-employment, should be submitted in writing to the employee's supervisor. The request should state any pertinent information about the outside employer, the nature of the job, and the hours of employment.

Employees are cautioned to consider carefully the demands that additional work activity will create before requesting permission to seek or accept outside employment. Outside employment will not be considered an excuse for poor job performance, absenteeism, tardiness, leaving early, refusal to travel, or refusal to work overtime or different hours. If outside work activity does cause or contribute to job-related problems, it must be discontinued, and if necessary, normal disciplinary procedures will be followed to address all such problems and conflicts.

1-24. RESTRICTION ON POLITICAL ACTIVITY

Employees have the right to vote and to express opinions on political issues and candidates. However, employees are prohibited from taking an active part in political management or political campaigns during the employee's work hours.

1-25. PUBLICITY/STATEMENTS TO THE MEDIA

All media inquiries regarding the Tribe and its operation must be referred to the Tribal Chairman. The Tribal Chairman is authorized to make or approve public statements pertaining to the Tribe or its operations. No employees, unless specifically designated by the Tribal Chairman, are authorized to make those statements. Any employee wishing to write and/or publish an article, paper, or other publication on behalf of the Tribe must first obtain approval from the Tribal Chairman and/or the Tribal Council.

1-26. CONFIDENTIALITY OF INFORMATION

The protection of confidential business information and trade secrets is vital to the interests and the success of the Tribe. Confidential information is any and all information disclosed to or known by employees as a result of employment with the Tribe.

Confidential information may be contained in written manuals, verbal communications, in any unwritten knowledge, and in the unwritten knowledge of other employees, and/or any other tangible method of expression, including hard disk and soft disk drive mechanisms. Examples of confidential information include, but are not limited to, the following: employee compensation data/capabilities, vendor identities/capabilities, financial information, labor relations, pending projects/proposals, research and development strategies, customer lists/preferences/interviewing procedures, proprietary processes, technological data/prototypes, medical conditions, current treatment plans related to casework, and personally identifiable information about clients, patients, or customers.

All employees will be required to sign an oath of confidentiality as a condition of employment. Due to the close proximity in which employees work, any information overheard or seen while in the course of their duties should be considered confidential and not revealed or discussed with family, friends, or anyone else without prior written approval from management.

An employee who improperly uses or discloses trade secrets or confidential business information will be subject to disciplinary action, up to and including termination of employment and legal action, even if the employee does not actually benefit from the disclosed information. When leaving employment of the Tribe, employees will return all Tribal property, including confidential information or material, such as drawings, notebooks, reports, and other documents.

1-27. SOCIAL MEDIA



Definition of Social Media – For the purposes of this policy, social media should be understood to include any website or forum that allows for the open communication on the internet including, but not limited to: Social Networking Sites (LinkedIn, Facebook); Micro-blogging sites (Twitter); blogs (including Tribal and personal blogs); On-line encyclopedias (Wikipedia); and Video and photo-sharing websites (YouTube; Flickr).

Think Before Posting – In general, employees should think carefully before posting online, because most online social platforms are open for all to see. Despite privacy policies, employees cannot always be sure who will view, share or archive the information that is posted. Before posting anything, employees should remember that they are responsible for what is posted online. Employees should carefully consider the risks and rewards with respect to each posting. Employees should remember that any conduct, online or otherwise, that negatively or adversely impacts the employee's job performance or conduct, or of other co-workers or adversely affects clients, customers, colleagues or associates of the Pyramid Lake Paiute Tribe or the Tribe's legitimate business interests may result in disciplinary action, up to and including termination. If employees have any doubt about what to post online, it is probably better not to post, since once something is placed in cyberspace, it is difficult to retract the information. Employees should use their best judgment and exercise responsibility when posting to any social media websites.

Using Social Media at Work – Employees are prohibited from using social media during working hours or on equipment provided by the Tribe, unless such use is work-related or authorized by a supervisor. Employees need to avoid using Tribally-provided email addresses to register on social networks, blogs or other websites for personal use.

Employer Reserves the Right to Monitor – Where applicable law permits, the Tribe reserves the right to monitor the employee use of any social media, and take appropriate action with respect to inappropriate or unlawful postings. In monitoring social media, the employer will not in any way interfere with any employee rights.

Employees Are NOT Authorized to Speak on Behalf of the Tribe, Unless Explicitly Given Permission – Employees should express only personal opinions online and an employee should never represent himself or herself as a spokesperson for the Pyramid Lake Paiute Tribe or other co-workers, clients, customers, colleagues or other individuals who work on behalf of or who are associated with the Tribe. If an employee chooses to post online content relating to the Tribe, the employee should make it clear that he or she is not speaking on behalf of the Tribe. Any online activity relating to or impacting the employer should be accompanied by a disclaimer stating the "the posting on this website are my own and do not necessarily reflect the views of the Pyramid Lake Paiute Tribe." This disclaimer should be visible and easy to understand.

Do Not Post Confidential Information – Employees should aim to protect the Tribe's trade secrets and private, confidential and proprietary information. Employees should make sure that online postings do not violate any non-disclosure or confidentiality obligations.

Be Mindful of Copyright and Intellectual Property Laws – Employees should be careful to comply with all copyright, trademark and intellectual property laws.

Respect Financial Disclosure Law – Employees should keep in mind that it is illegal to communicate or provide a tip on inside information with respect to the buying and selling of stocks or securities. This may also violate applicable Tribal policies.

Act Appropriately – Employees should act appropriately when posting online. Any online behavior should be consistent with the Tribe’s policies and practices with respect to ethics, confidential information, discrimination and harassment. Because online tone can be interpreted in different ways by readers, employees should not engage in any online conduct that would not be acceptable or appropriate in the workplace, including derogatory or discriminatory remarks, threats, intimidation, harassment, insults, slander, defamation or pornography.

Demonstrate Respect – When posting anything online, employees should always be fair and respectful to co-workers, clients, customers, colleagues and other individuals who may work on behalf of the Pyramid Lake Paiute Tribe. Employees should demonstrate proper respect for the privacy of others. If an employee decides to post a complaint or criticisms, the employee should avoid using any statements, photographs, video or audio that may be viewed malicious, obscene, threatening, harassing or abusive of co-workers, clients, customers, colleagues or other individuals that work on behalf of or are associated with the Tribe. Employees should refrain from engaging in offensive postings that may create a hostile and abusive work environment based on race, sex, religion or any other protected class.

Be Accurate and Honest – Employees should always be accurate and honest in posting any news or information to social media and quickly correct any mistakes or errors. Employees should never post any information which known to be false about the Tribe or any co-workers, clients, customers, colleagues or other individuals that work on behalf of or are associated with the Tribe.

Business-Related Social Media Accounts – All business-related social media accounts and related postings maintained by employees for marketing and/or networking purposes remain the property of the Tribe. All information including the account, the login and password should be returned to the Tribe at the end of the employee’s employment. No employee has the right to use the account after termination of employment and only the Tribe is permitted to change the account names and settings.

Retaliation Prohibited – The Tribe prohibits taking negative action against any employee for reporting a possible violation of this social media policy or cooperating in any investigation with respect to a potential social media policy violation. Any employee who retaliates against any employee for reporting a possible deviation from this policy or for cooperating in any investigation will be subject to disciplinary actions, up to and including termination.

Legal Liability – Employees can be legally liable for what is written or posted online. The Tribe also reserves the right to discipline employees, up to and including termination, for any commentary, content or images that are pornographic, harassing, and libelous or for anything that creates a hostile work environment based on race, sex, religion or any other protected class.

SECTION 2. ADMINISTRATION OF THE PERSONNEL PROGRAM

2-1. TRIBAL COUNCIL

The Tribal Council shall exercise control over personnel management through the adoption of program budgets, the pay plan, and the personnel policies and procedures submitted by the Personnel Committee. The Tribal Council, through resolution, must approve changes to the personnel manual.

- A. Duties. The Tribal Council is the policy-making body for personnel administration and shall not be involved in the day-to-day personnel administration matters. Oversight of the personnel program shall be exercised through:
 - 1. Review of recommendations submitted by the Personnel Committee and other actions taken at committee meetings.
 - 2. Review of minutes submitted by the Personnel Committee.
 - 3. The selection of the Executive Team or other management staff (overseen by the Executive Team, Board or Commission) from among the list of qualified eligible applicants recommended/submitted by interview panels.

2-2. PERSONNEL COMMITTEE

In consultation with the Human Resources Department, the Personnel Committee will advise the Council on matters of personnel policies, procedures and problems; make determinations on employee grievances not resolved within the department.

- A. Composition: The Personnel Committee shall consist of five (5) interested community members who are chosen by the Tribal Council.
- B. Procedures: The Personnel Committee shall select a Chairperson, Vice-Chairperson and Secretary from among its members. The Committee shall meet at such time and place as needed. Meetings will be coordinated between the Chairperson and the Human Resources Department. The members may be compensated with established Tribal committee stipends as budgeted.
- C. Quorum: A quorum of the membership of the Committee will be required to conduct business by majority vote of those present.
- D. Removal: The Personnel Committee may, by majority vote, recommend to the Tribal Council for the removal of members at any time for neglect of duty or failure to carry out duties and responsibilities. Such members will first be notified in writing of the reasons for removal and an opportunity to respond by the next regularly scheduled committee meeting. Committee vacancies will be posted by the Tribal Secretary and a new appointment made by the Tribal Council if necessary.

- E. Duties: The powers and duties of the Personnel Committee:
1. Revise and make recommendations to the Tribal Council on Personnel Policies and Procedures and amendments thereto. Changes to these Personnel Policies and Procedures shall require the approval by resolution and majority vote of the Tribal Council.
 2. Recommend a pay plan to the Tribal Council in consultation with the Human Resources Department.
 3. Make effort through the Human Resources Department to provide technical assistance to Department Heads in recruitment, testing, interview and selection methods.
 4. Review requests from departments to establish, abolish, or reclassify positions in their departments. Submit recommendations to the Tribal Council for the classification of positions and ensure uniform specifications.

2-3. TRIBAL CHAIRMAN

The Tribal Chairman working with the Human Resources Department provides oversight of the personnel program and has the following duties:

- A. Oversee the performance evaluation of Tribal programs that are under his supervision; implement dismissal of such Department Heads for unsatisfactory performance or unacceptable conduct in accordance with adopted policies and procedures.
- B. Perform other related duties and responsibilities as listed in the Personnel Policies and Procedures Manual.

2.4. EXECUTIVE TEAM

The Executive Team, under direct supervision of the Tribal Chairman, consists of the following employees: Tribal Executive Officer, Tribal Programs Officer, Tribal Business Officer, and Tribal Comptroller. The Executive team is responsible for the management, direction, and supervision of assigned programs to ensure delivery of quality services and assists by managing the daily Tribal government operations and provides supportive services to Tribal entities upon request.

- A. Recommend adoption or amendment of written procedures as deemed necessary and proper for the purpose of enforcement or implementation to proper Committee/Board in compliance with Administrative policies and ordinances.

2-5. HUMAN RESOURCES DEPARTMENT

Human Resources is responsible for the overall personnel management which includes recruitment, employee relations, employee benefits program, salary administration, worker's compensation, grievance and appeal system, and personnel records management. Human Resources provides assistance to Department Heads and Supervisors in developing,

communicating, and implementing the Tribe's personnel policies. Other duties include:

- A. Maintain a current roster of all employees in Tribal service. Maintain centralized personnel files and keep the records up to date, handling all documents in a respectful and confidential manner.
- B. Post all job announcements for the required period of time. Maintain applications, examination material, eligibility lists and other related materials.
- C. Oversee recruitment, interviews, testing, selection, placement and orientation of new employees. Coordinate the drug and alcohol testing program and the background investigation program; and conduct background investigations for required positions.
- D. Coordinate the appraisal, transfer, layoff, recall, demotion, and termination of employees.
- E. Provide written handouts and information on the personnel program. Administer benefit plans and disclose information to employees.
- F. Assist in the computation of personnel salary and benefit costs for budgets, salary surveys and other related purposes.
- G. Oversee compliance with applicable employment laws and regulations. Plan and formulate general personnel policies, including work force planning.
- H. Evaluate personnel policies and conduct investigations as needed. Make recommendations to the Personnel Committee on personnel issues and work with the Committee to revise policies and procedures.
- I. Coordinate training, counseling, and other employee development programs.
- J. Monitor the processing of employee grievance/appeals. Keep track of the timelines at each step and coordinate the receipt of grievance decisions to appropriate parties.

2-6. DEPARTMENT HEADS

Department Heads may develop and implement departmental procedures as deemed necessary for the efficient and orderly administration of their respective departments. Such procedures are subject to the approval of the Tribal Chairman and shall be on file in the Tribal Chairman's office before they become effective. Departmental procedures must be consistent with Tribal personnel policies and procedures, and a copy must be made available to the Human Resources Department and the respective department.

Department Heads shall have the authority and responsibility, subject to the provisions of the personnel manual and Tribal policy, to:

- A. In consultation with the Human Resources Department, hire, promote, discipline and separate employees in compliance with applicable laws, policies, or other guidelines.
- B. Recommend the recruitment and testing procedures to be used in hiring employees with technical assistance from the Human Resources Department.
- C. Initiate the establishment, abolishment and reclassification of positions within their departments to the Personnel Committee through the Human Resources Department.
- D. Schedule employee vacations, lunch and rest breaks. Control absenteeism and tardiness, and approve requests for time off.
- E. Verify employee time sheets and schedule overtime when necessary.
- F. Evaluate the performance of probationary and regular employees in a timely manner.
- G. Conduct departmental employee orientation, training, counseling, and development.
- H. Recommend the assignment and duty change of employees consistent with career development.
- I. Comply with applicable laws and regulations concerning employee safety.
- J. Other related duties and responsibilities as listed in this manual.

2-7. SUPERVISORS

It is the policy of the Tribe that the work of all employees is to be assigned, directed and reviewed by supervisory personnel. Employees ordinarily will have only one supervisor to whom they report.

The primary role of each supervisor is to provide an effective link between management and non-management employees. As such, supervisors are expected to communicate the goals and policies of management to the employees under them. At the same time, they are expected to communicate back to management the attitudes, suggestions, and complaints of their employees.

Supervisors must, in addition to mastering the technical skills needed for their work unit, be able to lead and motivate their employees to do their jobs effectively and efficiently. To this end, supervisors should be prepared to:

- A. Treat employees as individuals.
- B. Give recognition for good performance, and provide guidance when improvement

is needed.

- C. Explain in advance when and why changes are necessary.
- D. Show integrity by admitting mistakes instead of shifting the blame to others.
- E. Be impartial and inform employees of the reasons for any decisions that might be interpreted as unfair.
- F. Demonstrate a desire for good performance by setting work goals and standards for employees.
- G. Create a feeling of teamwork and belonging among employees.
- H. Ensure that work areas are maintained neat and orderly.
- I. Set good examples by holding themselves to the standards of conduct and performance that they expect of their employees.
- J. Implement corrective, disciplinary and/or disciplinary actions as necessary.

2-8. ADVISORY BOARDS AND COMMITTEES

The basic purpose of program advisory boards, committees or other advisory bodies is to: assist in providing input regarding community views and concerns to the Department Head; advise the Department Head on ways of implementing the general program direction; assist the Tribal Council in monitoring the effectiveness of the program or project in meeting its objectives; assist in screening applicants for Department Head positions and submit recommendations to the Tribal Council through the Human Resources Department for selection and appointment.

The day-to-day administration of the program, project or department shall be the responsibility of the Department Head who is held accountable to the Tribal Council for effective administration.

Advisory boards or committees may submit to Department Heads suggestions for administrative procedures, but the final decision for administrative and personnel actions will be that of the Department Head.

2-9. PERSONNEL SYSTEM COVERAGE

These Personnel Policies shall apply to all Tribal employees except the following:

- A. Tribal Council members elected by popular vote, unless they are also employees of the Tribe in other positions.
 - 1. Tribal Council members who are also employees of the Tribe shall be considered Tribal employees during work hours and when attending to various functions and activities as a part of their job. Tribal Council members are required to gain prior approval from their supervisor's if Tribal

Council business is required during working hours. There will be no preference, priority or special consideration given to these employees other than the normal consideration, respect and cooperation afforded all employees. All Tribal employees are subject to the provisions of the Personnel Policies and Procedures including, but not limited to, disciplinary action and termination, leave and attendance policies, organizational chain of command, and any other requirements which may be imposed as a condition of employment

- B. Members of advisory boards or committees appointed by the Tribal Council, unless they are also employees of the Tribe in other positions;
- C. Consultants employed on a project basis;
 - 1. Whether a worker is an “Employee” or an “Independent Contractor” is critical when it comes to such important issues as pension eligibility, workers’ compensation coverage, wage and hour law, and many other matters. Independent Contractor means a self-employed person who agrees with a client to do work for the client, for a certain fee, according to the means or methods of the self-employed person, and not subject to the supervision or control of the client except as to the result of the work.
 - 2. Department Heads wishing to hire an individual or contract for services need to be aware that compliance with the Internal Revenue Code and with IRS regulations often involves considerable paperwork and advance planning. When deciding whether an individual worker is an Employee or Independent Contractor for wage withholding purpose, the IRS typically applies the common law test of control. Under this test, if the payer has the right to control and direct what a worker does and how he/she does it – whether or not exercised – an employer-employee relationship exists. Without such control, a worker may be classified as an Independent Contractor. Upon execution of a contract, the hiring officials must ensure that a W-9 and Debarment and Suspension form are signed.
- D. Legal counsel; and
- E. Bona fide volunteers.

2-10. IRS/CONTRACTOR TEST

There are 20 factors that determine classification as a Tribal Employee, including: works substantially for the tribe; complies with instructions about where, when and how the work is performed; receives training from or at the direction of the tribe; provides services that are integrated into regular activities; personally renders services; does not hire, supervise or pay assistants; has a continuing relationship with the tribe; follows set hours of work; performs work on tribal premises; does work in a set sequence; submits regular reports to the tribe; receives payments of regular amounts at set intervals; receives payment for business and/or traveling

expenses; relies on the tribe to furnish tools and materials; lacks investment in facilities used to perform the service; cannot make a profit or suffer a loss from their service; works for one employer at a time; does not offer their services to the general public on a regular and continuing basis; can be terminated by the Tribe; may quit work any time without incurring liability for nonperformance.

2-11. PERSONNEL RECORDS

It is the policy of the Tribe to maintain tangible and electronic personnel records for applicants, employees, and former employees in order to document employment-related decisions, evaluate and assess policies, and comply with government record keeping and reporting requirements.

- A. The Tribe strives to balance its need to obtain, use, and retain employment information with each individual's right to privacy. To this end, it attempts to restrict the personnel information maintained to that which is necessary for business reason or which is required by applicable federal, state, or local law.
- B. The Human Resources Department is responsible for overseeing the record keeping of all personnel information and will specify what information should be collected and how it should be stored and secured.
- C. The Human Resources Department shall maintain centralized personnel information for all Tribal employees and prepare personnel rosters from such records. Personnel information shall contain the name, address, department, job title, pay rate and other pertinent current information on each employee.
- D. The Human Resources Department shall also maintain other general personnel records and materials as appropriate. Such material may include class specifications, job announcements, evaluation procedures, lists, and other material.
- E. Maintenance of Personnel Records. The Human Resources Department shall maintain an individual personnel file for each employee. Personnel files shall include, but not be limited to, the following:
 - Application for employment and related materials such as resume, official college transcripts, recommendation letters, certificates, and copies of employment correspondence
 - Employee Action Notices
 - Job Description(s)
 - Disciplinary Action Notices
 - Performance Appraisal Forms
 - Authorized Payroll Deduction Forms
 - Drug-Free Workplace Statement
 - Withholding Tax Certificate, W-4
 - Training Records
 - Records of physical examination(s) and test results

- Other related documents require separate files, such as medical information.

Records shall be kept on all personnel actions including, but not limited to: hiring, promotions, dismissals, reprimands and resignations of both full-time and part-time employees.

- F. Employees have a responsibility to make sure their personnel records are up to date and should notify the Human Resources Department in writing of any changes in at least the following: name; address; telephone number; marital status (for benefits/tax withholding purposes); number of dependents; addresses and telephone numbers of dependents and spouse or former spouse (for insurance purposes); beneficiary designations for insurance plans; and persons to be notified in case of emergency.
- G. Employees may inspect their own personnel records and may copy, but not remove, documents in the file. Such an inspection must be requested in writing to the Human Resources Manager and will be scheduled at a mutually convenient time. All inspections must be conducted in the presence of Human Resources staff. A reasonable charge, not to exceed the actual cost to the Tribe, will be made for any copies of records made by the employee. Any employee caught tampering or attempting to insert, remove or amend a personnel file will be subject to disciplinary action including, but not limited to, termination of employment.
- H. Only supervisory and management employees who have an employment-related need-to-know for information about another employee may inspect the files of that employee. Such an inspection must be approved by the Human Resources Manager and should be recorded in the file inspected. Documents submitted to the personnel file must show acknowledgement by the employee.
- I. Employees are to refer all requests from outside the Tribe for personnel information concerning applicants, employees, and former employees to the Human Resources Department. The Human Resources staff normally will release personnel information only in writing and only after obtaining the written consent of the individual involved. Exceptions may be made to cooperate with legal, safety, and medical officials who have a need to know specific employee information. In addition, exceptions may be made to release limited general information, such as employment dates; position held, and location of job site.
- J. The Immigration Reform and Control Act of 1986 (IRCA) requires that any employee, including citizens as well as non-citizens, hired after November 6, 1986, certify his or her citizenship status within three (3) business days after hiring.

2-12. FILE RETENTION

Employee files are depository of many different documents, each with specific information and with different retention periods.

A.	Job applications, resumes	1 calendar year
B.	Medical Information/Accommodations	1 year
C.	Medical Information/Injury reports	Duration of employment + 30 years
D.	Family and Medical Leave	3 years
E.	1-9 Forms	3 years after hire or 1 year after term.
F.	W-4's	4 years
G.	Health and welfare plan documents	6 years
H.	Employee Personnel Records	6 years
I.	Verifications (Job/PLHA, Welfare)	1 calendar year (file maintenance)

2-13. CHAIN OF COMMAND

Throughout these Personnel Policies and Procedures, reference to the Tribal Chairman is made with the understanding that in the Tribal Chairman's absence, the administrative duties, responsibilities and authority identified in this manual shall rest with the Tribal Executive Team. In the absence of the Tribal Chairman, the duties, administrative responsibilities and authority shall rest with a member of the Executive Team. In the absence of the preceding authorities, the Tribal Secretary shall be delegated to carry out the duties and responsibilities and confer all authority pertaining to personnel management, which is normally assumed by the Tribal Chairman.



SECTION 3. CLASSIFICATION PLAN

3-1. PURPOSE

A Classification Plan is a system of grouping positions which are similar and involve basically the same type and level of work into appropriate classes so that desirable qualifications, suitability, pay determination and selection procedures can be applied.

The Classification Plan is a guideline that makes possible the management of personnel functions on a class (group) basis rather than on an individual (position) basis. The Classification Plan is the backbone of the Personnel System and the common basis for other personnel activities.

The Classification Plan serves as the basis for a practical pay administration system by making it possible to equate classes of positions with common salary ranges and identifying which positions should be paid a common range; establishes qualification standards for recruitment and selection purposes; allows for the testing of applicants for employment on a class (group) basis rather than on an individual basis and thereby provides a basis for similar treatment of applicants in the selection process; outlines the developmental possibilities for employees as part of a career system and allows them to prepare for those promotional opportunities; establishes common lines of promotion; and simplifies budgetary, payroll, planning and management activities; facilitates personnel management control across department lines of authority and assists in organizational analysis; and provides basic information for the development of work performance standards.

3-2. CLASS

A Class will be comprised of positions that are similar in the basic characteristics of duties and responsibilities that the same pay scale, title, and qualification can be applied and the positions can be equitably treated under like conditions for all other personnel purposes. The same basic qualification requirements will be applied to all positions in a Class regardless of the department in which the position is located.

The job classes are grouped into six major occupational divisions: Skilled, Clerical, Paraprofessional, Professional, Management and Executive. Each basic group includes several different types of positions.

3-3. CLASS SPECIFICATION

A Class Specification (position description) is the written criteria by which Tribal positions can be evaluated, similarly titled and pay practices used. The Class Specification will state the characteristic duties, responsibilities and qualification requirements that distinguish a given Class from other classes. The specification will be descriptive but not restrictive; that is, the Class Specification will describe the more typical types of work that may be allocated to a given Class, but will not be construed to restrict the assignment of other duties related to the Class.

The Class Specification will contain a Class Code, Class Title, and brief description of the nature of the work, typical duties, minimum qualification requirements including knowledge, skills, abilities, training and experience, plus any license or registration required for that class.

3-4. ADMINISTRATION OF CLASSIFICATION PLAN

When a new position is proposed, the Department Head will send, through the Human Resources department, to the Personnel Committee a request for classification of the position with a draft description of the applicable duties and responsibilities. The Personnel Committee will allocate the position to the proper class after analysis and evaluation of duties and responsibilities.

When the duties of a position have changed substantially as to kind and/or level of work, the Department Head may initiate a request for a change in classification. This request will be submitted in writing to the Human Resources Department accompanied by a draft position description, subject to budgetary limitations after an administrative review. After an administrative review, the Human Resources Department will forward all pertinent information received along with any appropriate recommendation to the Personnel Committee at its next regularly scheduled meeting. If the Personnel Committee determines that the position has changed significantly, they will recommend to reclassify the position, and rules and pay policies applicable to a position change will apply. If, after careful analysis and evaluation, the reclassification request is determined to be without merit and the Personnel Committee denies the request, no similar request may be submitted within six (6) months following the date of denial. The effective date of a new classification or reclassification of an existing position shall be the first day of the next pay period following approval by the Tribal Council.

3-5. CLASSIFICATION METHODOLOGY

The classification process will include a systematic study (job analysis) through the use of position description, observation, interview or other techniques needed to gather the necessary information.

Classification decisions will be made on the basis of the kind and level of the duties and responsibilities of the position with appropriate consideration for the qualifications required, relation to other jobs or positions and other important job-related allocation factors. The Personnel Committee will arrange similar in kind of work but positions differing in level of difficulty and responsibility into series and differentiate between levels by use of numerical designations I, II, etc.

3-6. CLASSIFICATION RESPONSIBILITY

Department Heads and other management officials are responsible for drafting job description or specification for the positions they supervise and submit their request to the Human Resources Department who will present the description and recommend a classification for each position to the Personnel Committee.

- Step 1: Submit classification/reclassification forms, comparability study, and draft job description(s) to the Human Resources department.
- Step 2: Review the individual job specifications within each occupational group. Each specification includes DEFINITION, DUTIES & RESPONSIBILITIES, MINIMUM QUALIFICATIONS, REQUIRED EDUCATION AND EXPERIENCE and lists the required knowledge, skills and abilities.

- Step 3: Select the level that most nearly matches the level of difficulty of the position. The Department Head, with assistance from the Human Resources Department, will consider the major duties that are performed on a regular basis. The Personnel Committee will be consulted in determining job characteristics.
- Step 4: The qualification requirements for the pay level selected will need to be included in the job description.

The Human Resources Department will provide assistance and suggestions to Department Heads in any of the steps outlined above. The Personnel Committee shall make a decision on the classification of the position and may suggest alternative ways of structuring positions to be more cost effective. The Tribal Council has the final authority to approve classification of Tribal positions after considering the recommendation of the Personnel Committee. Specifications cannot be changed without approval by the Personnel Committee and the Tribal Council

3-7. SETTING THE SALARY

When a position is announced, the actual salary range is publicized. Most salaries are set at the first step of the grade; however, Professional (400), Management (500) and Executive (600) salaries are designated Negotiable to ensure comparable and negotiable wage, if employment conditions indicate the need or the person selected has qualifications which significantly exceed the minimum qualifications specified on the job specification, *provided the salary can be accommodated without fiscal impact.*

3-8. DOCUMENTING STEP INCREASES

The Department Head or Supervisor grants step increases on an annual basis to compensate employees for satisfactory or better work performance as documented on a written performance appraisal. Performance will be measured against accepted standards as listed in an employee's job description.

3-9. MAINTAINING THE SYSTEM

Department Heads will review all positions regularly for accuracy. Any change in major duties requires a reevaluation of the position to determine if a change in classification is required.

Wage comparability studies should include a selection of organizations which are similar to the Tribal organization in size, purpose and financial resources, however may include larger organizations that compete for employees. Job specifications, qualification requirements and occupation grouping may be changed upon the recommendation of the Personnel Committee and approved by the Tribal Council.

The Personnel Committee will review all revisions before recommendation to the Tribal Council. Documentation which may justify revisions to job specifications include: an indication of the number of positions which are properly set above Step I, evidence of overqualified candidates for positions, high turn-over rates, lack of applicant pool, or lack of positions to accomplish program goals.

SECTION 4. PAY PLAN AND PAY ADMINISTRATION

The Human Resources Department is responsible for the maintenance of a uniform and equitable pay plan that consists of minimum and maximum rates of pay and such intermediate schematic steps, subject to the approval of the Tribal Council. Upon recommendation, the Tribal Council can approve a revised wage schedule as appropriate.

Salary ranges are linked directly to the position classification plan and shall be determined with due regard to the following consideration:

- A. The level of duties and responsibilities, demands of the class, and maintenance of equitable relationships between classes.
- B. Prevailing rates of pay for similar employment in both public and private organizations.
- C. Availability in the marketplace of qualified applicants willing to work for the existing ranges of pay.
- D. Cost of living factors based on available funding. The feasibility of an annual cost of living allowance shall be determined by the Tribal revenue projections. The same cost of living allowance rates shall be provided to all regular employees.
- E. Other benefits received by employees.
- F. The economic conditions of the Tribe.

4-1. APPOINTMENT RATE

Classes Skilled/Specialized/Industrial (100), Clerical (200) and Paraprofessional (300) shall have starting salaries preferably set at Step 1 of the appropriate pay level, for a class and paid to any person, whether full-time or part-time, regular or temporary appointment to a position in the class. Appointment above the minimum rate may be made when employment conditions or exceptional qualifications of the employee would justify such appointment, but will in no case exceed the 3rd step of the appropriate salary range.

Law Enforcement, Judicial, etc. will be compensated based upon the approved GS Wage scale (Local Area only) starting wage Step 1-3 based upon qualifications and experience.

Classes Professional (400), Management (500) and Executive (600) are designated Negotiable to ensure comparable and negotiable wage, if employment conditions indicate the need or the person selected has qualifications which significantly exceed the minimum qualifications specified on the job specification, the wage will be negotiated within a reasonable range comparable for that position, provided the salary can be accommodated without fiscal impact to the budget.

4-2. REAPPOINTMENT RATE

Employees receiving reinstatement to a former position who left Tribal employment in good

standing may be paid at any step within the pay range not to exceed the step attained at the time of the separation. Reappointment rates do not apply to regular employees who resigned a previous position and later become reemployed in the same position.

4-3. REVISIONS TO THE WAGE SCHEDULE

Upon adoption of a new pay plan, the rate of pay for each employee shall be adjusted to a step in the newly assigned range corresponding to a like step in the former range. In no case will an employee's base pay be reduced. However, if the pay is higher than specified for the new pay range, the pay will be frozen until such time as an increase is justified. The wage scale consists of thirty (30) grades in each pay level increasing 7.5% per grade with 30 steps increasing 5% per step.

4-4. MERIT STEP ADVANCEMENT WITHIN ASSIGNED SALARY RANGE

There are thirty (30) merit steps in each pay level. A merit step increase of 5% may be given to the next higher step within the appropriate salary range for satisfactory completion of the 1st year of employment and annually thereafter upon a written recommendation of the supervisor based on satisfactory performance appraisal.

It is the Tribe's policy to conduct employee performance reviews on a regularly scheduled basis as a means of fostering employee development and motivating employees to reach their full potential.

Objectives of the performance review plan are to:

- Motivate and guide employees toward greater self-development and improved performance by discussing significant strengths and areas needing improvement in a positive, constructive manner.
- Identify training resource needs.
- Provide a record of employee progress.
- Provide a uniform means for the Supervisor to make salary determinations based on their assessment of employee performance in relation to performance requirements.

A. Performance Requirements (Expectations). Performance requirements represent the level of performance expected of employees in fulfilling duties and responsibilities. The Supervisor establishes the performance requirements and ensures that they are effectively communicated to the employee.

B. Objectivity. Appraisals should be supported with specific examples whenever possible. Supervisors must keep the following points in mind when performing reviews to keep the appraisal as objective as possible:

1. Supervisors must be careful to evaluate employees objectively on each "area" of the appraisal. There often can be a tendency to evaluate an employee with an overall good rating in every phase of their performance. Likewise, the same can happen with employees with an overall poor performance.

2. Supervisors must not allow bias or personal likes or dislikes for individuals to affect their objectivity in the appraisal process. Supervisors can tend, instinctively but unconsciously, to rate those who resemble themselves in any way, such as personality, appearance, or work habits as superior to others. Supervisors need to be careful to rate the employee on performance only and not on personal attributes of the employee.
 3. Evaluations must reflect an accurate appraisal of an employee's performance. Some Supervisors give high ratings or praise so that they won't hurt an employee's feelings. Such an approach makes the appraisal process meaningless and can actually hurt the employee in the long run by denying them constructive feedback. However, Supervisors should also avoid being unduly hard on employees through negative reviews.
- C. Appraisal Process. Supervisors are responsible for conducting thorough, impartial and timely performance reviews with employees who report directly to them. Performance reviews are a function of evaluating employees on the basis of their performance while considering the employee's length of time in the position. Performance review forms are intended to assist Supervisors and employees in communicating and recording assessments of their performance, and establishing goals/areas for improvement. The Supervisor will inform the employee of an upcoming appraisal and set a date for a meeting. The employee should complete an Employee Self-Appraisal and give it to their Supervisor prior to the scheduled appraisal meeting. The Self-Appraisal allows the employee to become more involved in the objectives of the appraisal process through assessment of their own performance, and provides the Supervisor with an insight from the employee.

The most important part of the appraisal process is the discussion of the evaluation with the employee. If the meeting with the employee is effective, it leads to a better understanding and relationship between the employee and the Supervisor, clarifies the mutual objectives of the employee and Supervisor, and gives the employee a feeling of satisfaction regarding the areas of work in which they have done well.

Upon completion of the review process, the employee should write any comments they have about the appraisal received, sign the form, and the Supervisor will route the form to Human Resources to include in the employee's personnel file.

- D. Anniversary Date. The anniversary date for regular employees shall be the date of hire. Thereafter, the end of each year of uninterrupted satisfactory service in the same position until the maximum for that salary range is reached. An employee's time on leave without pay for over thirty (30) consecutive days will not count toward service. An adjustment will be made to the anniversary date by adding the same number of days on Leave without Pay (LWOP) to the anniversary date. Adjustments reflect the one (1) year service eligibility for a merit step increase.
- E. Effective Date. The effective date for a merit step increase shall be the annual

anniversary date or adjustments thereto.

- F. Denial of a Merit Step Increase. If, during the employee's annual review period, performance indicates less than satisfactory service, the merit step increase will not be granted until the employee has, in the judgment of the Supervisor, corrected the noted deficiencies. If a Supervisor intends to deny a merit step of an employee, written notice will be submitted to the employee with copies to the Human Resources Department at least sixty (60) calendar days prior to the anniversary date. If the employee's performance does not improve within sixty (60) days after the notice to the employee and to the satisfaction of the Supervisor, the merit step increase will not be granted. In addition, the employee may be put on notice that his or her future employment with the Tribe is in jeopardy, unless improvement to a level of satisfactory or better is made and maintained thereafter without exception. Written notice of the denial of a merit step increase and the reasons, therefore, will be submitted to the employee with copies to the Human Resources Department immediately following the sixty (60) day evaluation period.
- G. Factors Which Do Not Affect Anniversary. The following factors will not affect eligibility for a merit step increase:
1. A pay adjustment resulting from a revision of the wage schedule.
 2. Uniformed Service leave without pay necessitated by a draft or reserve because of a national emergency.
 3. A period of paid leave;
 4. Reclassification of a position when there is no change in the job title and/or class code.
- H. Wage and salary increases are based on performance (merit); and how well an employee meets performance standards for his or her specific job. Merit step increases are not guaranteed. They must be earned and do not create an implied contract for future employment. To process a merit increase, the Supervisor must complete a written performance review. Merit increases that are processed late are granted as retroactive pay back to the employee's effective anniversary date.

4-5. PROMOTION

There are thirty six (36) pay levels in the salary schedule. Each successive pay level corresponds with an increase in responsibility and complexity of work, as indicated by the job specifications. Promotions are made when an employee moves from one pay level to a higher pay level. They should be made to the step that is closest to the current salary figure, which represents an increase not to exceed 10 %. All employees must have an equal opportunity to compete for high-level positions.

The effective date of any promotional raise shall be the beginning of the following pay period. A promoted employee will begin a new probationary period. The anniversary date shall be effective

on the date of promotion and annually thereafter. There will be no lapse in benefits as long as there is no break in service.

4-6. DEMOTION

When an employee is demoted, the rate of pay shall be determined as follows: If the salary received in the higher pay range falls within the range for the class to which demoted, the rate of pay shall be reduced approximately 10% but not lower than the minimum rate of the appropriate grade level. Supervisors shall notify the demoted employee at least five (5) working days before the effective date of an action to demote.

4-7. TRANSFER

When an employee transfers within class, the rate of pay shall remain unchanged.

4-8. REALLOCATION OF POSITION

- A. To a Class of a Higher Pay Range. When a position is reallocated to a class of a higher pay range, the provisions governing rate of pay for promotion shall be used to set the salary of the incumbent.
- B. To a Class of the Same Pay Range. When a position is reallocated to another class of the same pay range, the salary of the incumbent shall remain unchanged.

4-9. OVERTIME

The Tribe abides by the regulations outlined in the Fair Labor Standards Act (FLSA) concerning minimum wage, overtime compensation, record keeping and child labor standards.

Non-exempt (hourly) employees who work approved overtime hours in excess of forty (40) hours in a single workweek shall be paid at one and one-half (1½) times the approved hourly rate of pay. A Supervisor may direct overtime be worked when, in the Supervisor's judgment, overtime work is necessary to meet program goals or in emergency situations.

4-10. NON-EXEMPT (HOURLY) POSITIONS

Although "non-exempt" is the legal classification, positions hired to full-time or part-time classifications that are paid for services rendered on an hourly basis are referred to as "hourly."

4-11. EXEMPT MANAGEMENT (SALARIED) POSITIONS

Employees defined as being exempt/salaried under provisions of the Fair Labor Standards Act (FLSA) are those classified as Executive, Administrative or Professional positions and are paid to perform the duties of their positions regardless of time requirements. Although "exempt" is the legal classification, such employees are referred to as "salaried." Validated complaints against exempt staff regarding non-performance or service may be cause for disciplinary action or termination. The list of exempt classifications is updated continually.

The exemptions from the Fair Labor Standards Act, as amended, are based on the following:

- A. Executive. Primary duties include the management of the enterprise or of a customarily recognized department or subdivision; customarily and regularly directs the work of two (2) or more other employees; authority to hire and fire other

employees or effectively recommend as to the hiring, firing, advancement promotion or other change of status of other employees given particular weight.

- B. Administrative. Primary duties include the performance of office or non-manual work directly related to management or general business operations of the employer or the employer's customers; the consistent exercise of discretion and independent judgment in matters of significance.
- C. Professional. Primary duties include the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction; work requiring invention, imagination, originality or talent in a recognized field of artistic endeavor.

It is our policy to comply with the salary basis requirements of the FLSA. Therefore, we prohibit Supervisors from making any improper deductions from the salaries of exempt employees. We want employees to be aware of this policy and that the Tribe does not allow deductions that violate FLSA. If you believe that an improper deduction has been made to your salary, you should immediately report this information to your direct supervisor. Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, you will be promptly reimbursed for any improper deductions made.

Permitted salary deductions are allowed for certain situations. Exceptions to the "no pay-docking": rule include the following: 1) Absence from work for one or more full days for personal reasons, other than sickness or disability. 2) Absence from work for one or more full days due to sickness or disability if deduction made under a bona fide plan, policy, or practice of providing wage replacement benefits for these types of absences. 3) To offset any amounts received as payment for jury fees, witness fees, or military fees. 4) Penalties imposed in good faith for violating safety rules of "major significance." 5) Unpaid disciplinary suspension of one or more full days imposed in good faith for violations of written workplace conduct rules. 6) Proportionate part of an employee's full salary may be paid for time actually worked in the first and last week of employment. 7) Unpaid leave taken pursuant to the Family and Medical Leave Act.

4-12. PROFESSIONAL ALLOWANCES

If an employee is required to attend conferences and training sessions related to their job, the employee will be reimbursed for expenses incurred, including travel costs, registration, materials, and reasonable room and board costs, provided the employee received prior approval of the Department Head and the budget has sufficient funds to incur costs.

4-13. TOTAL PAY

Any pay rate established for an employee shall be the total remuneration, not including reimbursement for official expenses. No employee shall receive pay from the Tribe in addition to the authorized payment provided in the pay plan, or services rendered either in the discharge of ordinary duties, or any additional duties which may be imposed upon the employee or which the employee may undertake to perform.

During regular working hours, employees may not receive double compensation while on the

Tribal payroll. If meetings take place during regular working hours, employees on special boards or committees or the Tribal Council who also receive compensation for meeting attendance in addition to their Tribal employment compensation must either choose a Tribal stipend and take leave without pay or be paid the regular salary, whichever they prefer.

In order to preserve integrity and to avoid conflicts of interest, in either case, employees shall apply for appropriate leave to attend to Tribal Council, Board or Committee business when such attendance is not a requirement of their job and when such meetings are conducted during working hours.

4-14. WAGE GARNISHMENTS OR ATTACHMENTS

The Finance Department is authorized to receive a writ of garnishment or attachment, a notice of levy by any taxing authority, or any other similar order requiring payment of a portion of an employee's compensation to someone other than the employee. The Finance Department is to notify the affected employee immediately and then deduct the required amount from the employee's earnings after receiving an authorized payroll deduction form. The amount deducted, however, should not exceed that permitted by law.

The maximum amount that may be garnished from each paycheck is twenty five percent (25%) of the employee's net earnings, or the amount by which net earnings exceed thirty (30) times the federal minimum wage, whichever is less. Without a voluntary payroll deduction form, an agency can pursue garnishments through the Pyramid Lake Tribal Court.

4-15. PAY PROCEDURES

It is the policy of the Tribe to pay employees by check or direct deposit on a regular basis and in a manner so that the amount, method, and timing of wage payments comply with any applicable laws or regulations.

- A. Employees normally will be paid on a biweekly basis. A payroll schedule will be issued to employees at the beginning of a calendar year, upon employment, or upon request.
- B. Distribution of Paychecks. Paychecks will be ready for pick up at 10:00 a.m. on the designated payday. Paychecks will be distributed to employees by their immediate Supervisor or Department Head.
- C. Paycheck Security. To ensure the security of paychecks, they will be issued only to each employee personally, unless the employee has provided written authorization for the check to be released to another person. Employees who wish to have someone else pick up their paycheck must complete an authorization form, which may be obtained from the Finance Department. This is to ensure that paychecks are properly distributed in an employee's absence.
- D. Paydays Falling on Holidays. If a payday falls on a holiday, employees will be paid on the workday closest to the holiday.

- E. Employees on each payday will receive, in addition to their check or deposit advice, a statement showing gross pay, deductions, and net pay. Federal and Social Security taxes will be deducted automatically. No other deductions will be made unless required or allowed by law, contract, or employee obligation. Employees may elect to have additional voluntary payroll deductions, if authorized in writing, for Tribally provided services, such as Child Care, Public Utilities, and/or Housing Authority payments, whether mandatory or not.
- F. Employees are expected to review each paycheck carefully and report suspected errors immediately. It will be presumed that if an employee does not report an error, that his or her paycheck is correct. Errors should be reported in writing and include the date of the paycheck and details of the suspected error. A copy of the relevant pay stub and timesheet should be attached. Underpayment of less than \$50.00 will be included in the paycheck immediately following discovery of the error. Underpayment of more than \$50.00 will be paid within three (3) working days by supplemental check.

If, within ninety (90) days, it is discovered that an employee has been overpaid, the Tribe reserves the right to make appropriate payroll deductions for repayment of the overage. Amounts of less than \$50.00 will be deducted from the paycheck immediately following discovery of the overpayment. Amounts of over \$50.00 will be repaid through multiple payroll deductions based on a mutually agreeable written schedule. Overpayments discovered after ninety (90) days will be absorbed by the Tribe and no repayment will be required.

In the case of loss or theft, the Finance Department will attempt to stop payment on the check and reissue a new one to the employee. However, the employee is solely responsible for the monetary loss, and the Tribe cannot be responsible for the loss or theft of a check if it cannot stop payment on the check.

- G. Employees are expected to manage their personal finances to meet and discharge their financial obligations in a timely manner, so that they do not adversely impact job performance or the Tribe's public image. The failure of employees to meet financial obligations may impose an administrative and financial burden on the Tribe in terms of extra bookkeeping. As such, advance payment of earned wages and salaries shall be limited to three (3) per year for true emergency situations, which are unpredictable in nature.

Emergencies include hospitalizations, death in family, or other urgent needs. Paying routine bills is considered predictable and should be planned accordingly. Requests for advance payment of earned wages must be approved by the Department Head and the Tribal Chairman or designee.

- H. Employees are expected to cash paychecks on their personal time.
- I. Final Paycheck for Dismissed Employees. Whenever possible, a final paycheck

should be issued to a dismissed employee at the time of dismissal, and no later than seventy-two (72) hours from the effective date of separation. However, a final check may be held until all issued equipment, keys and other items are returned.

- J. Final Paycheck for Voluntarily Resigning Employees. The final paycheck for a voluntarily resigning employee will be made available on a regular payday or within seven (7) days after separation, whichever is earlier. However, a final check may be held until all issued equipment, keys and other items are returned.
- K. Non-exempt (hourly) employees will be paid overtime compensation at the rate of one and one-half their regular hourly rate for approved work in excess of forty (40) working hours during a single week. Non-exempt employees are required to submit biweekly time sheets approved by their supervisor.
- L. The Tribe may make the following permissible deductions from salaries of Exempt Executive, Administrative, or Professional employees: deductions may be made for full day absences for personal reasons, sickness, or disability. The employer need not pay the employee for days of absence before the employee has qualified for compensation under leave plans, policy or practice, or after he/she has exhausted leave allowances. Deductions from salary may be made as penalties imposed in good faith for violation of safety rules, but the rules must be of major significance, relating to the prevention of serious danger to facilities or fellow employees.
- M. Salaried employees who perform a second job will be compensated at the hourly rate for duties outside of their regular working hours. Overtime will not be incurred, nor will an employee be double compensated for any overlap of time while working more than one position. In the event of such overlap of duties, a Supervisor will determine which rate of pay will apply.

SECTION 5. RECRUITMENT AND SELECTION

5-1. PURPOSE

Selection to enter into Tribal service is based on qualifications and suitability and shall be through open competition. It is the policy of the Tribe to hire individuals upon the basis of their qualifications and ability to perform job responsibilities and duties.

Selection methods will be based on job-related knowledge, skills, abilities, experience, and education and when appropriate, prior demonstrated performance, aptitude and adaptability. Selection factors will be weighted as determined proper through job analysis.

Regardless of the number of competitors, selection methods shall be deemed competitive when:

- A. Valid qualification requirements are used;
- B. A reasonable opportunity is afforded qualified persons to apply;
- C. All persons compete against common standards.

5-2. ELIGIBILITY TO COMPETE

- A. **Recruitment.** An active recruitment process will be conducted to meet current and projected needs. The department will initiate special recruitment efforts, ensuring that the Human Resources Department is notified and that recruitment efforts are directed to appropriate sources that attract an adequate number of applicants for consideration.

The primary source of recruitment will be the enrolled membership of the Pyramid Lake Paiute Tribe provided that the candidates are qualified and meet the minimum qualifications. Recruitment notices will be posted in the local communities and Tribal facilities, in addition to advertising in newspapers, magazines, or trade journals as deemed appropriate.

- B. **Noncompetitive Evaluations.** When appropriate, a noncompetitive evaluation may be conducted to establish an employee's eligibility for appointment to a higher-level position when such position is reallocated in recognition of a gradual change in duties and responsibilities providing the employee is performing the duties satisfactorily.
- C. **Restrictions on Consideration for Selection.** All applicants must meet minimum qualifications and other job-related requirements. Applications will be screened by the Human Resources staff prior to forwarding a job file to the respective department. Initial screening is a method that ensures minimum qualification standards are applied consistently.

- D. **Recruitment of Disadvantaged.** To facilitate employment of disadvantaged persons in aide or similar positions, competition may be limited to such individuals. Similar requirements for specially funded programs designed to assist such disadvantaged groups may also be applied. In no case shall an applicant be discriminated against on the basis of disability. All individuals who meet eligibility criteria are encouraged to apply for advertised positions.

- E. **Methods of Assessment.** Department Heads in consultation with the Human Resources Department, will recommend the type of assessment procedures to use in evaluating the relative qualifications and suitability of applicants. Methods used in the selection process may be oral technical interviews, evaluation of training and experience, written tests, performance or job sample tests, physical agility tests, aptitude tests, background or reference checks or any combination of these or other assessment methods which legitimately evaluate the applicants on valid, job-related factors in relation to their proper importance to the job.

5-3. ELIGIBILITY FOR REHIRE

Former employees who leave Tribal employment in "good standing" will be eligible for re-employment consideration. Any employee who has been terminated or otherwise separated for personal conduct or gross misconduct will automatically be classified as ineligible for rehire with the Tribe. This applies to both regular and temporary employment.

The following are examples of reasons for separation that will result in classification as Ineligible for Rehire. These reasons are not all inclusive: falsification of credentials, application information or work-related documents, breaches of confidentiality, theft, damaging Tribal property, insubordination, acts of workplace violence, endangering health and safety of others, weapons possession, and unsafe work or driving practices. The preceding offenses will result in a permanent ineligible for rehire designation and may not be appealed.

The other examples of reasons for separation, also not all inclusive, will result in classification as Ineligible for Rehire for Twelve (12) Months: job abandonment, sleeping on the job, job performance deficiencies, loss of a required credential, failure to provide adequate notice of termination.

5-4. JOB ANNOUNCEMENT

The announcement will specify the title and salary range of the class for which the vacancy is announced; a definition of the work to be performed; the duties and responsibilities of the position; experience and training required; the time, place, and manner of making application; the minimum qualifications and other pertinent information.

Announcements will be distributed for every vacancy in order to inform interested and qualified persons of the opportunity to apply. Announcements will be posted locally and advertised in other places to attract qualified applicants. Announcements will be posted for a minimum of ten (10) working days. The announcement period may be extended as required to attract a sufficient number of qualified applicants for the position to be filled.

5-5. APPLICATION FOR EMPLOYMENT

Employment application forms will be available to all interested persons upon request in person or in writing from the Human Resources Department, Tribal Secretary, Receptionist, and at other places deemed appropriate for effective recruitment. Applications can also be downloaded from the Tribe's website. All employment applications must be made on the approved application form and must be submitted within the time period specified in the announcement.

Applications will be accepted on a continuous basis. However, the Human Resources Department will only conduct interviews during an active recruitment for the purposes of establishing an eligibility list.

5-6. REJECTION OF APPLICANTS

An employment application may be rejected if the applicant:

- A. Is found to lack the qualifications listed for the job as described in the class specification announcement or recruitment.
- B. Has practiced or attempted to practice deception or fraud in the employment application or evaluation.
- C. Has otherwise violated provisions of the Personnel Policies and Procedures.
- D. Has failed to successfully pass a background investigation or required medical exam and/or psychological assessment.

5-7. INTERVIEW MANAGEMENT

- A. Notification. Applicants will be notified in writing by the Human Resources Department of the date, time and place of the interview.
- B. Time and Place of Interview. An interview will be held that meets the convenience of applicants, practicability of administration and the needs of Tribal service.
- C. Composition of Interview Panel. A standard panel will be comprised of the Department Head/Supervisor, Human Resources staff member, Personnel Committee member, and Advisory Board/Committee member. In the event that representatives cannot attend, alternate members will be sought as appropriate. The interview panel provides input and arrives at consensus as to hiring preference from among the candidates based on qualifications, interview responses, behavior, character, and relevant factors in order to determine each candidate's suitability for the position. The Department Head/Supervisor makes the final selection based on applicant rating or can decide to extend recruitment efforts. Screening panels will submit recommended finalists to the Tribal Council for final interview and selection.

- C. Life of Employment Applications and Evaluation Material. Employment applications will be retained for one (1) year. Evaluation material such as rating sheets and written tests will be disposed after the interview process is concluded.

5-8. INDIAN PREFERENCE

In accordance with the Indian Preference Act of 1934 (25 U.S.C. 472), when seeking to fill vacancies by reassignment, initial appointment, transfer, or reinstatement, preference points will be awarded to qualified Indian applicants who present proof of eligibility. Indian Preference will be imposed to Indian applicants who have successfully completed the examination process and are determined by the interview panel to be considered with all other applicants for employment. At this point, each Indian applicant whose roll number has been verified shall receive Indian Preference award points to their respective total examination score(s). **Enrolled Indian Tribal member: 5 points**

5-9. VETERAN PREFERENCE

To receive Veteran Preference, the separation from active duty must have been under honorable conditions. This includes honorable and general discharges. A clemency discharge does not meet the requirements of the Veterans Preference Act. Each applicant claiming Veteran's Preference shall provide a copy of a DD-214 as verification of veteran status. **Veteran Preference: 5 points**

5-10. APPOINTING AUTHORITIES

The Tribal Council, the Tribal Chairman, or the Department Head are considered as the appointing authorities and will exercise discretionary power by approving or disapproving all recommendations for appointment. The selection policy will be applied uniformly to all prospective employees subject to the provisions of this manual and budgetary considerations and other authority pertaining to personnel administration.

5-11. TYPES OF APPOINTMENT

Appointments to fill a vacancy which may or may not be budgeted positions:

- A. Regular Appointment: An appointment where an employee has been selected according to the hiring process and works on a full-time or part-time basis. New employees are subject to a probationary period. Regular full-time employees are eligible for leave and other benefits upon successful completion of the probation period. Regular part-time employees are eligible for pro-rated leave according to hours worked; other benefits, including health and life insurance are available for employees who work thirty-two (32) or more hours per week on a regular basis.
- B. Temporary Appointment: An appointment made to a full-time or part-time position, not to exceed ninety (90) days. Temporary employees are not eligible for benefits, such as paid leave, holidays, insurance, COLA, pay advances, or paid training.
- C. Intermittent Appointment: An appointment made to fill a position by an individual who may be called to work at any time and is employed to supplement the program's regular full-time staff. Intermittent employees are not eligible for benefits, such as paid leave, holidays, insurance, COLA, pay advances, or paid training.

A Department Head/Supervisor may recommend to the Human Resources Department to hire an applicant for an intermittent position, which, because of unforeseen and unpredictable changes in the amount of work, cannot be included in the budget as a regular employee. The applicant hired for an intermittent position shall be paid on an hourly basis and is not eligible for benefits afforded regular employees. Applicants for intermittent positions shall meet the established minimum qualifications for the classification.

5-12. PLACEMENT REQUIREMENTS AND PROCEDURES

- A. Pre-placement Medical Examinations: Following a conditional offer of employment a medical examination may be required for certain positions, such as Police Officers, prior to commencement of work and shall be conducted by a licensed physician. If the physician deems an applicant medically unable to perform the duties of a position, the physician shall state the reasons for the inability, in writing. Medical examinations shall reflect a bona-fide job qualification and shall be limited to such considerations. Refusal to submit to a medical examination shall be grounds for rejection.
- B. Background Checks: Every individual who is selected for a Law Enforcement position, Public Trust position or positions having regular contact or control of children and their records will be fingerprinted for the purposes of a background investigation. Certain prior convictions will not be grounds for automatic rejection and all such information will be evaluated in relation to the requirements of the specific job. In no event will the investigation include less than a national agency check, (including a check of the fingerprint files of the Federal Bureau of Investigations); local law enforcement checks (i.e., State, County and Tribal Court systems); employment history; personal references; employment references; education/training verification; residence history check; a subject interview; drivers' license check/history; and military verification and credit check, if applicable.

The Human Resources Department shall coordinate and process fingerprint cards and retain confidential information as gathered from law enforcement agencies. The Human Resources Department shall also conduct employment and reference checks prior to an offer of employment; and shall ensure that all existing and newly hired employees undergo a criminal history background check. All information shall remain confidential and will be available only to pertinent personnel. All telephone checks, the name and title of the person interviewed shall be documented by the person conducting the check. If the applicant's reference checks are found to be inconclusive, then the applicant shall be required to provide additional references. All persons in law enforcement or positions with regular contact with or control over children shall be subject to periodic reinvestigation every five (5) years or as needed. A criminal history check will meet the requirements for the reinvestigation. Applicants and/or employees must be provided an opportunity to deny, explain, or refute derogatory information developed in the background investigation.

Public Law 101-647 allows hiring employees or utilizing volunteers provisionally prior to the completion of a background check, if, at all times, the person is within the sight and under the supervision of a staff person who has had a background check and has been determined suitable.

C. Conflict of Interest: A member of an employee's family or non-related individuals will be considered for employment by the Tribe if the applicant possesses all the qualifications for employment. A family member or non-related individual may not be hired, however, if the employment would:

1. Direct or control the work of the other.
2. Report to the other.
3. Have any review or sign-off relationship with the other.
4. Create either an actual or perceived conflict of interest.

These criteria will also be considered when assigning, transferring, or promoting an employee. For purposes of this section, family includes: the employee's spouse, brother, sister, parents, grandparents, children, grandchildren, aunt, uncle, niece, nephew, step-children, in-laws, and any other member of the employee's household. Non-related individuals sharing housing will be considered cohabitants for the purpose of this section (whether they are significant others, domestic partners, or share rent for economic reasons.)

In cases where there is no reporting relationship, but relatives or cohabitants working together creates a conflict or other disruption to normal operations, the Tribe reserves the right to reassign or transfer such employees as it deems necessary. In cases where such disruptions exist and there are no transfer/reassignment opportunities, the employees will be given thirty (30) days to demonstrate that they can work together without disruption. Related or cohabiting employees who cannot work together without conflict or disruption are subject to disciplinary action, up to and including termination of employment.

5-13. TRANSFERS

It is the policy of the Tribe that it may, at its discretion, initiate or approve employee job transfers from one job to another or from one location to another. The Tribe may approve employees to make either a temporary or long-term job transfer in order to accommodate the organization's needs.

Employees may transfer annual and sick leave balances at the time of transfer. The transfer of accrued leave is not automatic and must be agreed upon in writing by the Department Head to whose department the employee is transferring. Existing benefits such as Health Insurance, Life Insurance, and 401(K) Retirement, will be continued without a lapse in eligibility.

An employee who is hired to a different classification must serve a new probationary period. Transferred employees will retain their existing job seniority until satisfactorily completing their probationary period on the job.

SECTION 6. BACKGROUND INVESTIGATION PROGRAM

6-1. PURPOSE

The policies and procedures for the Background Investigation Program implement federal statutes relating to background investigations and employment suitability. The Pyramid Lake Paiute Tribe requires high standards of integrity and trust, so that the interests of the Tribal membership are promoted. The Background Investigation Program has been established to reduce the potential for abuse of the public trust, to ensure uniformity and fairness and to determine suitability for employment. The requirements of this Background Investigation Program are applicable to applicants for employment, appointees, individuals already employed, consultants, contractors, and volunteers. It is the purpose of the Background Investigation Program to conduct investigations and provide reports in a timely and cost-effective manner in order to promote the efficiency and to assist in the goals and expectations of the Tribe.

Special Note: No applicant shall be eligible to begin work for the Pyramid Lake Paiute Tribe until the following conditions have been met:

- A. The background questionnaire has been completed and submitted to the Investigator.
- B. The applicant has been fingerprinted and the cards are submitted to the Investigator.
- C. The applicant has passed their pre-employment drug and alcohol screening test.

6-2. AUTHORITIES

Federal statutes require that minimum standards of character be imposed to ensure that individuals having regular contact or control over Indian children have not been convicted of certain types of crimes or acted in a manner that placed others at risk or raised questions about their trustworthiness.

- A. Public Law 101-630, as amended. The standards of character must be no less stringent than those provided for the Bureau of Indian Affairs. The *Indian Child Protection and Family Violence Prevention Act* requires that each individual who is employed, is being considered for employment in a position having regular contact with or control over Indian children, or has duties or responsibilities having regular contact with or control over Indian children shall undergo an investigation of character. The minimum standards of character shall ensure that none of the individuals appointed to these positions have been found guilty of, or entered a plea of nolo contendere or guilty to, any felonious offense, or any two or more misdemeanor offenses under Federal, State, or Tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; crimes against persons; or offenses committed against children. The implementing procedures for Public Law 101-630 are found in the Code of Federal Regulations, Title 25, Part 63, *Indian Child Protection and Family Violence Prevention*.
- B. Public Law 101-647, (Codified in 42 United States Code 13041). The *Crime Control Act of 1990, Subchapter V - Child Care Worker Employee Background Checks* require that each agency of the Federal Government and every facility operated by the Federal Government (or operated under contract with the Federal Government), that hires or contracts for hire

individuals involved with the provision to children under the age of 18 of child care services shall assure that all existing and newly-hired employees undergo a criminal history background check. The term "child care services" means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.

6-3. RESPONSIBILITIES

The Human Resource Manager is responsible for implementing and administering the Background Investigation Program in compliance with the requirements of the authorities, assuming management commitment to the goals and objectives of the program.

- A. This includes, but is not limited to, the following:
 - 1. Designate, in writing, a Background Investigator and any alternates.
 - 2. Ensure personnel designated as a Background Investigator is fully knowledgeable and conversant in the identified authorities, as well as possesses extensive practical experience in progressively responsible security positions. Knowledge and experience in the security field should include, but not be limited to: security and suitability adjudication, background investigations, program placement and position risk designations, control, handling, and safeguarding of personal and private information, physical security; regulations, and policies pertaining to security in general, and current developments and initiatives in the overall security arena.
 - 3. Appoint a fully knowledgeable, qualified and trained Adjudicator. The Adjudicator and the Background Investigator may be the same person provided they are qualified and have been trained and certified to adjudicate. A private firm can be contracted to conduct the adjudications if it is in the best interest of the Tribe.
 - 4. Ensure positions are properly designated to reflect the risk level of the position.
 - 5. Ensure each person with a responsibility for background investigations, program placement and position risk level designations and/or adjudicating background investigations for suitability determinations, receives appropriate training.
 - 6. Submit reports as required.

- B. The Human Resource Department responsibilities include, but are not limited to, the following:
 - 1. Ensure that vacancy announcements clearly state that favorable applicant screening, the initiation of a background investigation, and a favorable suitability determination are conditions of employment.

2. Ensure questions mandated by Public Law 101-630 and Public Law 101-647 are incorporated into applications for employment of individuals working with Indian children.
 3. Ensure the Background Investigator is notified of all relevant personnel actions which include, but are not limited to: adverse actions, reassignments, details, transfers, or termination from public trust positions and/or positions with regular contact or control over Indian children.
 4. Ensure that no appointments are made to positions having regular contact or control over Indian children prior to completion of investigative forms and notification to the Background Investigator.
- C. The Background Investigator is the principal point of contact with other security offices and law enforcement agencies. Background Investigator responsibilities include, but are not limited to, the following:
1. Ensure the Background Investigation Program is in compliance with all applicable statutes.
 2. Initiate and conduct investigations to provide a basis for the Adjudicator to determine a person's suitability for employment in public trust positions. The investigator must conduct the appropriate type of investigation that is commensurate with the level and scope of required investigation. A private firm can be contracted to conduct the background investigations or portions of the background investigation as necessary.
 3. Review information obtained from investigative forms and background investigations for disqualifying information and notify the appropriate officials if serious derogatory information is identified that may potentially cause harm to an Indian child or affect the mission of the Tribe.
 4. Oversight and review authority for suitability adjudications and position risk designations.
 5. Ensure that initial investigations and periodic reinvestigations are conducted in accordance with applicable statutes and on a timely basis.
 6. Ensure that Adjudicators have been subject to a favorable evaluation based on a background investigation that is commensurate in scope and coverage of the investigative information being reviewed.
 7. Ensure protection and maintenance of investigative documentation for each individual for which a background investigation has been conducted.

8. Obtain proper training on position risk designations, suitability adjudication, and other personnel security and suitability related matters.
9. Ensure training is provided to those responsible for reviewing, adjudicating, and processing personnel suitability investigations.
10. Conduct periodic security compliance appraisals for tribal departments having responsibility for Indian children.
11. Submit reports as required.

D. Adjudicators will be responsible for the following:

1. Ensure that suitability adjudications for all public trust positions are processed in accordance with appropriate statutes.
2. Institute an adjudication process that protects the interests of the Tribe and the rights of the individuals by conducting a uniform evaluation that assures fair and consistent judgment.
3. Take appropriate action needed to make a screening determination, following receipt of investigative forms (containing derogatory information) from the Background Investigator, to include verbal and written inquiries, documentation of research, and notifications to the Human Resources Department. Favorable screening determinations are required to allow entry to duty for new hires.
4. Review the investigative report and take appropriate action needed to make a final adjudication, following receipt of a completed background investigation from the Background Investigator, to include verbal and written inquiries, documentation research, and notifications to Human Resources Department.

E. Hiring Officials, Department Heads, and Supervisors are responsible to:

1. Ensure that individuals are not allowed contact with or control over Indian children until a background investigation has been initiated.
2. Ensure that individuals who are pending a final suitability determination remain within the sight and under the supervision of a staff person, for whom a favorable suitability determination has been completed, at all times during which children are in their care.
3. Ensure that the Background Investigator is notified immediately after a Department Head or Supervisor becomes aware of any circumstance that may affect the suitability of any of their employees (including contractors, consultants, or volunteers).

Conduct that may affect suitability includes, but is not limited to: unacceptable results from drug tests, outstanding warrants or arrests, violent or threatening behavior, alcohol related instances of misconduct, illegal drug use, substance abuse treatment, misuse of information technology, programs and/or data, and/or conduct that may potentially harm an Indian child.

4. Ensure that all employees under their jurisdiction are aware of the importance of background investigations and communicate the necessity to respond to inquiries by the Background Investigator, Adjudicator, or their representatives sincerely and promptly.
 5. Ensure that the Background Investigator is notified immediately if an employee including contractors, consultants, and volunteers, stops employment or voluntary services, for any reason, so that pending investigations and/or inquiries can be discontinued.
- F. Subjects of screening and background investigations (applicants, appointees, employees, contractors, consultants, and volunteers) are responsible to:
1. Complete and return the investigative forms issued to them for the purpose of conducting a background investigation.
 2. Assist in the background investigation process by providing truthful information on all investigative forms and to cooperate with the Background Investigator, Adjudicator, or their representatives during the screening, employment, and investigative or adjudicative process.
 3. Provide copies of all requested documentation, such as references, certifications, transcripts, court dispositions, credit history, DMV records, and other related documents to the Background Investigator/Adjudicator.
 4. Ensure the protection of sensitive information and/or personal information in their custody from unauthorized disclosures, if applicable to their position.
 5. Comply with all authorities applicable to them and adhere to all applicable suitability standards.
 6. Effective July 1, 2010 new employees and those requiring re-certification will have \$40.00 deducted from their paycheck to offset the cost of their background investigation.

6-4. POSITION RISK DESIGNATIONS

Any position with the Pyramid Lake Paiute Tribe is considered a position of "public trust," and will be subject to a background investigation commensurate with the level of responsibility according to job specifications. All employment activities can be adversely affected by the action or inaction of employees in any responsible capacity; therefore, all positions are considered "Public Trust."

The definition of "Public Trust" can be interpreted as any position that, directly or indirectly, has the potential to affect the community's perception of Tribal services and has access to Tribal resources. Such positions include, but are not limited to, positions that provide for environmental safety and control; positions in public works that have direct contact with community members on or off the reservation; positions that have contact or control over Indian children; positions that provide for the public safety and health of community members; positions that collect and account for Tribal revenue or have the authority to commit Tribal funds through loans, purchase orders, or contracts.

The following will outline the specific investigative requirements for individuals occupying public trust positions:

- A. All public trust positions must have, at a minimum, a basic background investigation.
- B. Public trust positions having regular contact with or control over Indian children must have a child care background investigation. The requirements for this background are specifically required under Public Law 101-630 and 101-647. All public trust positions having regular contact with or control over Indian children are also subject to a reinvestigation every five years from the date of the last investigation.
- C. Positions involving public safety and health, collection of revenue, finance, authority to commit Tribal funds through loans, purchase orders, or contracts are considered Moderate Risk Public Trust (MRPT) positions and must have a Moderate Risk background investigation.
- D. Public trust positions that have duties and responsibilities critical to the Tribe or its mission with a broad scope of policy or program authority are considered High Risk Public Trust (HRPT) positions. These high risk duties include, but are not limited to, duties such as: higher management assignments; independent spokesperson or non-management positions with authority for independent action; development and administration of computer programs/systems or other positions designated as high risk. All High Risk Public Trust positions must have a full background investigation.
- D. Documenting and Updating Position Risk Designations. When the position risk designation process has been completed, the Human Resource Manager shall document the designation in writing. Changes to the duties of a position may require the position risk designation to be raised or lowered. Updates must be completed timely by the Human Resource Manager upon written notification of any change in duties. If required, a new background investigation must be initiated if the individual's previous background investigation does not meet the requirements of the new position risk designation.

6-5. INVESTIGATIVE FORMS

All forms shall be completed in their entirety. Amendments to investigative forms must be completed and initialed by the individual signing the certification. Forms that are more than 120 days old, or that would exceed 120 days by the time the form can be transmitted and received by the Background Investigator must be returned to the individual for updating and re-signing.

- A. Investigative Forms. The Tribe has elected to utilize a Questionnaire/Application for Public Trust Position, Child Care Position or Law Enforcement Position as necessary. Supplemental questionnaires shall be used for all investigation requests submitted to the Background Investigator according to appropriate risk designation by type of position.
- B. Fingerprint Chart. Two sets of fingerprint charts shall be submitted with each investigative form for all individuals requiring a background investigation or reinvestigation.

6-6. TYPES OF INVESTIGATION

The following defines the specific types of background investigations that will be initiated for public trust positions:

- A. Basic Background Investigation. The Basic Background Investigation is the minimum investigation required for low risk public trust positions with no regular contact or control over Indian children. Coverage includes inquiries and verification regarding the individuals employers for the last five years, three personal references, highest educational degree, residences for the last five years, local law enforcement checks, a state repository check (fingerprints required), and if necessary, an interview with the Background Investigator.
- B. Child Care Investigation. As prescribed by the standards set forth by the Bureau of Indian Affairs and through the authority of Public Law 101-630, Public Law 101-647 and 25CFR63. The Child Care Investigation is the minimum investigation required for positions that have regular contact or control over Indian children. In addition, the Tribe has chosen this investigation to represent the minimum standard for positions deemed moderate risk public trust positions. Coverage includes the FBI name and fingerprint check, inquiries regarding the individual's employers and former supervisors for the last five years, highest educational degree verified, residences for the last five years, identified references, law enforcement checks, Sex Registries for the state(s) the individual has resided, worked, or attended school, a search of the State Criminal History Repository records of each unique state of residence that the individual indicates on his/her completed investigative form and, if necessary, a personal interview with the Background Investigator.
- C. Moderate Risk Investigation. Coverage includes FBI name and fingerprint check, inquiries regarding the individual's employers and former supervisors for the last five years, highest education degree verified, residences for the last five years, personal references, local law enforcement checks and, if necessary, a personal interview with the Background Investigator.
- D. Law Enforcement Investigation. As prescribed by standards set forth by the Bureau of Indian Affairs, the law enforcement check shall require coverage no less stringent than that prescribed for federal law enforcement officers. Coverage includes FBI name and fingerprint check, inquiries regarding the individual's employers and former supervisors for the last five years, highest educational degree verified, residences for the last five years, a minimum of four personal references with two additional references developed by the investigator, law

enforcement checks, Sex Registries for the state(s) the individual has resided, worked, or attended school, a search of the State Criminal History Repository records for each unique state of residence that the individual indicates on his/her completed investigative form, court records, credit history, and a personal interview with the Background Investigator.

- E. Full Background Investigation. The Full Background Investigation is conducted for high risk public trust positions. Coverage includes FBI name and fingerprint check, inquiries regarding the individual's employers and former supervisors for the last five years, highest educational degree verified, residences for the last five years, a minimum of four personal references, law enforcement checks, Sex Registries for the state(s) the individual has resided, worked, or attended school, court records, credit history and, if necessary, a personal interview with the Background Investigator.
- F. Background Investigations by Other Federal Agencies. The Tribe will not accept any reports of investigation by other agencies, programs, outside the Tribe unless authorized by the Background Investigator. Reports of investigation will be accepted if conducted within the Tribe as long as:
 - 1. The investigation meets the scope and extent of the required investigation.
 - 2. The investigation was completed, or updated by reinvestigation, within five years.

6-7. OFFICIAL SECURITY FILES

The Background Investigation Program shall establish an Official Security File (OSF) as individuals are initially processed for any type of action, such as applicant screening or background investigations.

- A. Contents and Arrangement of Data in OSF. The OSF for any individual who is being or has been processed for a background investigation, whether active or terminated, shall contain the original, or at a minimum, a copy of any documentation related to an investigation, including, the investigative report prepared by Background Investigator, case summaries and any documents, correspondence, or forms involving the individual subsequent to the initial background investigation action.
- B. Administrative materials are memoranda and other correspondence relating to administration of the case, including requests for background investigation, notes to the file, requests for interview, and similar data.
- C. Adjudicative materials are all of the investigative material relating to the screening and suitability determination, including the questionnaire completed by the individual, fingerprint cards, release forms, reports of investigation from any local law enforcement entity, letters, memoranda, or notes to file containing investigative data, summaries of investigation, incident reports, reports of hospitalization or treatment of substance abuse or alcohol abuse, letters of inquiry to the individual and responses thereto, case evaluations, and any other material relating to the adjudication of the individual's background investigation. At a minimum each OSF shall contain: case summary, background investigation report, and any additional law enforcement inquiries/records.

- D. Custody of Security Files. Authorization to maintain and receive investigative information and files is limited to the Background Investigator and the Adjudicator. Each must have been the subject of a favorable background investigation.
- E. Physical Storage. When not in use, Official Security Files are to be stored in a locked cabinet, safe, or in an equally secured area. Combination locks or keys should be changed annually or when a Background Investigation Program staff member is no longer employed. Access to the security files should be limited to only the Background Investigation Program staff.
- F. Dissemination of Information Contained in Security Files. The Background Investigator is responsible for controlling the information contained in each OSF. Investigative information is highly personal and must be protected from unauthorized disclosures. The Tribe must comply with privacy requirements of any Federal, State, or other Tribal agency providing background investigative information. The Background Investigator shall ensure that, other than official notices and certificates, that the individual meets minimum character standards. Investigative reports or administrative and adjudicative materials are not placed in the individual's personnel file. The Background Investigator may release information contained in an OSF to officials within the Tribe who have a "need to know" in performing their official duties, such as Background Investigation Program staff, Human Resources staff, Department Heads and/or Hiring Officials.
1. When a disclosure is made of investigative material contained in the OSF, the Background Investigator must maintain a record of the disclosure to include at a minimum:
 - a. Full name and signature of the person to whom the disclosure is made;
 - b. Type of investigation conducted to whom the material was disclosed;
 - c. Agency/Office represented and address;
 - d. Date of disclosure;
 - e. Nature and purpose of the disclosure; and,
 - f. Signature of approval of Background Investigator releasing the information.
 2. The Background Investigation Program shall maintain a log identifying each disclosure made to outside entities. The log must contain: the full name and signature of the person to whom the disclosure is made, agency they are representing, date of disclosure, and the name of the person for which information is being disclosed.
- G. Individuals Seeking Access or Amendment to their OSF. The subject of an investigation may be provided with a summary of the information contained in the case file, but not with a copy of the investigative report or law enforcement record itself.
- H. Destruction of Files. The Background Investigator shall be responsible for all investigative information obtained as a result of a background investigation for a period of no more than five years after separation of employment with Tribe. All investigative information will then be destroyed through shredding of all information contained in the individual's Official Security File.

6-8. INITIATING BACKGROUND INVESTIGATIONS

The Background Investigator is responsible for initiating the background investigations. Any derogatory information that is identified during the initial review of security forms will be referred to the Adjudicator for a screening determination.

The Background Investigator shall discontinue any open investigation, upon written notification from the Human Resource Department, a Hiring Official, Department Head, or Supervisor, that an individual is no longer employed or providing services. If the individual is transferring within programs, the background investigation will not be terminated.

- A. Requirements. Current employees and potential employees are subject to a background investigation as a condition of their employment. Individuals will be investigated at the level commensurate with the position occupied at the time the investigation is initiated. Once investigative forms are submitted to the Background Investigator and a favorable screening has been made, an individual may be placed in a position provisionally prior to completion of a background investigation and final adjudication. **However, at all times prior to receipt of a favorable background investigation, during which children are in the care of the individual, the individual must be within the sight and under the supervision of a staff person for whom a favorable background investigation has been completed.**

- B. Required Forms to Initiate a Background Investigation. The investigative forms and documents identified under this section will be collectively identified as the "security package". All forms and documents, throughout the course of the investigation, must be received within the timeframe indicated on a request. Failure to do so may result in the applicant being disqualified from employment for "failure to cooperate with a background investigation." Documents and forms required will vary dependent upon the risk designation of the position commensurate with the type of investigation required. No applicant shall be eligible to begin work for the Pyramid Lake Paiute Tribe until the "security package" has been received. Forms and documents required to initiate a Background Investigation:
 - 1. Supplemental Questionnaire for Public Trust Position or Child Care Position or Law Enforcement Position.
 - 2. Original Fingerprint Card(s).
 - 3. Copy of Tribal Application for Employment.
 - 4. Signed DPS Authorization Form.
 - 5. Copy of a Driver License and/or other Valid Photo ID.
 - 6. College Transcripts.
 - 7. DMV Report and/or Credit Report.

C. Process

1. The Human Resources Department issues a written tentative offer of employment which restates the requirements for a favorable screening and favorable background investigation to the potential appointee. The written notice must also provide the potential appointee with the required investigative forms and a due date for returning the completed forms directly to the Background Investigator. The due date shall not be any later than ten days from issuance of the forms to the potential appointee.
2. Immediately upon receipt of the security package, but no later than 5 days after receipt, the Background Investigator shall review all investigative forms. The review is to be conducted to ensure the following:
 - a. Omissions or discrepancies on any of the investigative forms contained in the security package have been corrected and initialed by the subject of the investigation.
 - b. Alterations to the printed content of the required forms shall not be accepted and should be returned to the individual for initials and correction.
 - c. The individual has provided the required explanation to any "YES" answer on the investigative forms.
3. Upon confirmation that the security package is complete, the Background Investigator will review the security package in order to identify any of the following potentially disqualifying suitability issues in accordance with the required statutes:
 - a. Information that would be considered disqualifying during suitability screening, regardless of date of occurrence, such as any statutory debarment issue.
 - b. Information that may be considered disqualifying during suitability screening, regardless of date of occurrence, such as any dishonorable military discharges, any loyalty or terrorism issue, and any evidence of dishonesty in the application or examination process.

6-9. BACKGROUND COMPLIANCE/PROGRESSION OF DISCIPLINARY ACTION

- A. Upon receipt of the background questionnaire the employee will have ten (10) working days to return the questionnaire and all supporting documentation to the Background Investigator.
 1. Failure to submit the questionnaire and supporting documentation in a timely manner will result in disciplinary action;

- a. Written warning – “Failing or refusing to observe or comply with safety procedures, rules, policies, standards or directives established by the Tribe or provided under law or regulation.” (Section 8-2, A.9.)
- B. A second request will be made to the employee describing the background information that is missing and required. The employee will have five (5) working days, from the date of the request to comply and provide the requested documentation to the Background Investigator.
 - 1. Failure to submit the required documentation in a timely manner will result in disciplinary action.
 - a. The employee will immediately be placed on suspension without pay.
 - b. The employee will have five (5) working days to submit all required documentation to the Background Investigator.
 - c. An employee may be taken off of suspension without pay and returned to normal status as soon as the required documentation is submitted.
 - 2. Failure to submit the required documentation within the five (5) working days will result in the termination of the employee and an unsuitable determination will be made; “Insubordination; a knowing violation or refusal to observe a properly adopted policy of the Tribe or department.” (Section 8-2, B.7.)
 - 3. If an unsuitable background determination is made as a result of the employee’s failure to cooperate with a background investigation the employee will not be eligible for rehire for a period of twelve (12) months from the date the determination was made. The twelve month ineligibility period will only apply to employees/applicants who failed to cooperate with their background investigation as described above.
- C. A Supervisor who fails to cooperate with implementation of the Background Investigation Program is subject to disciplinary action for failing to comply with rules, policies and standards established by the Tribe. In addition, immediate disciplinary action can be taken for the Supervisor’s insubordinate conduct by refusing to observe a properly adopted policy of the Tribe.

6-10. PROJECT VOLUNTEERS AND VISITORS

The definition of a project volunteer or visitor is any individual who is not considered a Tribal employee, consultant, or contractor and is providing services to Indian children for five calendar days or less within a year, such as chaperones for day field trips, presenters, demonstrators, etc. There are no screenings or investigative requirements for individuals that fall into this category, however, measures must be taken for the safety and well being of Indian children under the responsibility of the Tribe.

The agency/school/program shall ensure the following procedures are in place:

- A. All project volunteers and visitors must sign in with the designated agency/school/program point of contact. The agency/school/program shall post on all entrances this requirement. The agency/school/program shall have readily available a sign-in and out sheet that includes at a minimum: person's full name, their purpose at the agency/school/program, who they are visiting, arrival time, and departure time.
- B. After the project volunteer or visitor signs in, the agency/school/program designated point of contact will issue the project volunteer or visitor a badge or similar tag/label to identify the individual as a visitor.
- C. The agency /school/program shall take steps to ensure that all project volunteers or visitors are escorted or within the sight of or under the supervision of a staff person who has had a favorable background investigation.

6-11. ADJUDICATION

Favorable and unfavorable investigative information shall be analyzed by an Adjudicator in relation to the applicable statute criteria. The Adjudicator will determine whether or not the applicant, employee, contractor, consultant, or volunteer, (hereafter referred to as Subject) can effectively perform the duties of the position they are assigned without risk of harm to children and/or whether the Subject is suitable or fit to have responsibility for the safety and well-being of children or if the employment of the subject promotes the efficiency of the Tribe. In order to make this determination, the Adjudicator will review the investigative forms and employment application and compare the information provided, review the results of written record searches requested from local law enforcement agencies, former employers, former supervisors, employment references and schools, and review the results of fingerprint charts maintained by the FBI or other law enforcement information maintained by other agencies and make a favorable or unfavorable adjudication determination.

6-12. ADJUDICATOR RESPONSIBILITY

Responsibility for determining a person's suitability rests with the Adjudicator. Persons responsible for adjudicating personnel background investigations must be thoroughly familiar with the laws, regulations, and criteria pertaining to security and/or suitability determinations. The Adjudicator must consider all the information of record, favorable and unfavorable, and assess it in terms of the persons' loyalty, reliability, and trustworthiness. The Adjudicator will use uniform evaluation to ensure fair and consistent judgment. The judgment or determination the Adjudicator makes must be objective and based only on the facts contained in the investigative documentation. Each case must be weighed on its own merits, taking into consideration all relevant circumstances and prior experience in similar cases.

Each Adjudicator will be thoroughly familiar with the minimum standards of character established for the Subject's position. The Adjudicator is to ensure that each adjudication is an overall common sense determination based upon consideration and assessment of all available information, both favorable and unfavorable, with particular emphasis being placed on the nature, extent, and seriousness of the conduct, the circumstances surrounding the conduct, the frequency of the conduct, the individual's age and maturity at the time of the conduct, voluntary participation, the presence or absence of rehabilitation, the motivation

of the conduct, the potential for pressure, coercion, exploitation, or duress and the likelihood of continuation or recurrence of the conduct. Following receipt of the completed investigative report from Background Investigator, the Adjudicator has three (3) days from the date of receipt to determine whether the individual is suitable for their assigned position or take appropriate adjudicative action to make the determination. Appropriate actions include, but are not limited to, the initiation of further inquiries, issuance of letters of inquiry, or request the Background Investigator to provide further investigative information.

All Adjudicating Officials whether they be contractual or Tribal employees will have a file contained with results of a favorable background investigation and their applicable training maintained at the Human Resource Department. All contractual Adjudicating Officials will have to be approved before they are hired to adjudicate background investigations for the Tribe. It shall be the discretion of the Tribal Chairman to allow an Adjudicating Official to contract with a Tribal Program. Decisions will be based on the contract Adjudicating Official's training, experience and documentation that a favorable background investigation has been completed. No contractual Adjudicating Official will be authorized to adjudicate background investigations for the Tribe unless they have passed and show proof of a favorable background investigation.

6-13. ADJUDICATION CRITERIA

The Adjudicator uses specific criteria to determine whether the individual's employment in a public trust position and/or placement in a position with contact or control over Indian children promotes the efficiency of service as an employee of the Tribe.

- A. The criteria used is as follows:
1. Misconduct or negligence in employment.
 2. Criminal or dishonest conduct.
 3. Material, intentional false statement or deception or fraud in examination or appointment.
 4. Refusal to furnish testimony or cooperate with the background investigation.
 5. Alcohol abuse of a nature and duration which suggests that the applicant or appointee would be prevented from performing the duties of the position in question, or would constitute a direct threat to the property of safety of others.
 6. Illegal use of narcotics, drugs, or other controlled substances, without evidence of substantial rehabilitation.
 7. Knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force.
 8. Any statutory or regulatory bar which prevents the lawful employment of the person involved in the position in question.

- B. Additional considerations. In making a determination, the Pyramid Lake Paiute Tribe shall consider the following additional considerations to the extent they deem them pertinent to the individual case:
1. The nature of the position for which the person is applying or in which the person is employed.
 2. The nature and seriousness of the conduct.
 3. The circumstances surrounding the conduct.
 4. The recency of the conduct.
 5. The age of the person involved at the time of the conduct.
 6. Contributing societal conditions.
 7. The absence or presence of rehabilitation or efforts toward rehabilitation.
- C. Disqualification under Public Law 101-630, Indian Child Protection And Family Violence Prevention Act - The minimum standards of character that are to be prescribed under this section shall ensure that none of the individuals appointed to positions having contact or control over Indian children have been found guilty of, or entered a plea of nolo contendere or guilty to, any felonious offense, or any of two or more misdemeanor offenses under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; crimes against persons; or offenses committed against children.
- D. Disqualification under Public Law 101-647, Crime Control Act Of 1990, Subchapter V - Child Care Worker Employee Background Checks - (c) Applicable criminal histories - Any conviction for a sex crime, an offense involving a child victim, or a drug felony, may be grounds for denying employment or for dismissal of an employee in any position that provide child care services. The term "child care services" includes education positions, whether or not directly involved in teaching. In the case of an incident in which an individual has been charged with one of those offenses, when the charge has not yet been disposed of, an employer may suspend an employee from having any contact with Indian children while on the job until the case is resolved. Conviction of a crime other than a sex crime may be considered if it bears on an individual's fitness to have responsibility for the safety and well being of children.
- E. Disqualification under 25 CFR 63.21, Indian Child Protection and Family Violence Prevention:
1. The individual's misconduct or negligence interfered with or affected a current or prior employer's performance of duties and responsibilities.
 2. The individual's criminal or dishonest conduct affected the individual's performance or the performance of others.

3. The individual made an intentional false statement, deception or fraud on an examination or in obtaining employment.
4. The individual has refused to furnish testimony or cooperate with an investigation.
5. The individual's alcohol or substance abuse is of a nature and duration that suggests the individual could not perform the duties of the position or would directly threaten the property or safety of others.
6. The individual has illegally used narcotics, drugs, or other controlled substances without evidence of substantial rehabilitation.
7. The individual knowingly and willfully engaged in an act or activities designed to disrupt government programs.
8. An individual must be disqualified for employment if any statutory or regulatory provision would prevent his/her lawful employment.

F. Disqualification under GCA68 Gun Control Act (applies to Law Enforcement Positions). Under the GCA, firearms possession by certain categories of individuals is prohibited. Prohibited persons:

1. Anyone who has been convicted in a federal court of a crime punishable by imprisonment for a term exceeding one (1) year, excluding crimes of imprisonment that are related to the regulation of business practices.
2. Anyone who has been convicted in state court of a crime punishable by imprisonment of a term exceeding two (2) years, excluding crimes of imprisonment that are related to a regulation of business practices.
3. Anyone who is a fugitive from justice.
4. Anyone who is an unlawful user of or addicted to any controlled substance.
5. Anyone who has been adjudicated as a mental defective or has been committed to a mental institution.
6. Any illegal alien unlawfully in the United States or an alien admitted to the United States under a nonimmigrant visa. Aliens who have a tourist visa or student visa may possess guns if they have a current valid hunting license.
7. Anyone who has been discharged from the US Armed Forces under dishonorable conditions.
8. Anyone who renounced his or her citizenship of the United States.

9. Anyone that is subject to a court order that restrains the person from harassing, stalking, or threatening an intimate partner or child of such intimate partner.
 10. Anyone who has been convicted of a misdemeanor crime of domestic violence.
 11. Additionally, 18USC 922(x) generally prohibits persons under 18 from possessing handguns or handgun ammunition with certain exceptions for employment, target practice, education, and handgun possessed while defending the home of a juvenile or a home in which they are an invited guest.
 12. A person who is under indictment for a crime punishable by imprisonment for a term exceeding one year cannot lawfully receive a firearm. Such person may continue to lawfully possess firearms obtained prior to the indictment.
 13. The Brady Handgun Violence Prevention Act of 1993 created a national background check system to prevent firearm sales to such "prohibited persons."
- G. Disqualifications under Executive Order 12968 (Law Enforcement Public Trust Positions)
 The national interest requires that certain information be maintained in confidence through a system of classification in order to protect our citizens, our democratic institutions, and our participation within the community of nations. The unauthorized disclosure of information classified in the national interest can cause irreparable damage to the national security and loss of human life. Security policies designed to protect classified information must ensure consistent, cost effective, and efficient protection of our Nation's classified information, while providing fair and equitable treatment to those Americans upon whom we rely to guard our national security. This order establishes a uniform Federal personnel security program for employees who will be considered for initial or continued access to classified information. The following are consideration under Executive Order 12968 guidelines:
1. GUIDELINE A – Allegiance to the United States
 2. GUIDELINE B – Foreign Influence
 3. GUIDELINE C – Foreign Preference
 4. GUIDELINE D – Sexual Behavior
 5. GUIDELINE E – Personal Conduct
 6. GUIDELINE F – Financial Considerations
 7. GUIDELINE G – Alcohol Consumption
 8. GUIDELINE H – Drug Involvement
 9. GUIDELINE I – Psychological Conditions
 10. GUIDELINE J – Criminal Conduct
 11. GUIDELINE K – Handling Protected Information
 12. GUIDELINE L – Outside Activities
 13. GUIDELINE M – Use of Information Technology Systems

6-14. FAVORABLE ADJUDICATIONS

Upon a favorable determination, the Background Investigator will complete a case summary noting that there were no issues within the scope of the investigation and file the case summary in the Official Security File. After thorough review the Adjudicator will confirm that a favorable determination was made. A letter of Favorable Suitability Determination will be mailed to the applicant/employee and a courtesy copy will be provided to the Supervisor or Department Head.

6-15. UNFAVORABLE DETERMINATIONS

The Background Investigator will complete a case summary noting all of the derogatory issues within the scope of the investigation, the criteria affected, any mitigating information, and the reason that not all derogatory issues could be mitigated, therefore leading to a unfavorable determination. The Background Investigator will prepare the unfavorable determination letter for review and approval by the Adjudicator. Upon the receipt of the approval, the unfavorable determination letter will be mailed to the individual at their home address identified in the official personnel file. Courtesy copies will be provided to the individual's Supervisor or Department Head and the Human Resources Department. Upon notice of unfavorable suitability determination, the Supervisor, in coordination with the Human Resources Manager, will take immediate removal action from the position for which the Subject was found unsuitable. Contractors/consultants and volunteers will be handled in the same manner. However, for contractors/consultants and volunteers, removal action refers to removal from services for the Tribe. The unfavorable determination and date of removal will be documented in the Official Security File.

All cases involving substantial negative information about an applicant or employee after the determination of suitability will be forwarded to the Adjudicator for review. The Adjudicator may reverse a preliminary decision made by the Background Investigator. If a favorable or unfavorable determination is made by the Background Investigator which is conflicting with the Adjudicator, the Adjudicator will decide whether the employee or prospective employee will be retained or terminated. All decisions of suitability will be made by the Adjudicator and will be final and are not subject to over-turn by an elected official of the Tribe or through the Tribal grievance procedures.

6-16. FINAL SUITABILITY DETERMINATIONS

The applicant, volunteer, or employee must be provided an opportunity to explain, deny, or refute unfavorable and incorrect information gathered in an investigation, before the adjudication is final. The applicant, volunteer, or employee should receive a written summary of all derogatory information and be informed of the process for explaining, denying, or refuting unfavorable information. Employers and adjudicating officials must not release the actual background investigative report to an applicant, volunteer, or employee. However, they may issue a written summary of the derogatory information. The results of an investigation cannot be used for any purpose other than to determine suitability for employment. During the course of the background investigation, applicants, volunteers, or employees have the opportunity to provide documentation that would correct or refute unfavorable and incorrect information before a final determination is made. Therefore, all background determinations are FINAL and not subject to appeal.

6-17. DENIAL OF ACCESS TO INDIAN CHILDREN BASED ON CONVICTIONS

At any time that the Background Investigator and/or Adjudicator becomes aware that a subject has been convicted of an offense enumerated in PL 101-630 or PL 101-647, written notice will be issued by the Background Investigator to the Supervisor/Department Head that the subject must be immediately removed

from contact with or control over Indian children. A preliminary letter of unfavorable determination will be issued by the Adjudicator to the individual disclosing the specific conviction(s) that were identified. As part of the letter, the subject will be provided with an opportunity to refute, correct, explain or update the adverse information by responding, with any information, explanation or documentation which should be considered in reaching a final determination.

The Subject must prove that the conviction is not an offense enumerated in PL 101-630 or PL 101-647, or that they received an impingement or similar court action that is sufficient to refute the conviction information. Whether the Subject is terminated, put on suspension, or placed in a position that does not involve regular contact with or control over Indian children during this preliminary phase is at the sole discretion of the Supervisor/Department Head working in conjunction with the Human Resources Manager. Convictions may be considered if it bears on an individual's fitness to have responsibility for the safety and well-being of children.

6-18. DENIAL OF ACCESS TO INDIAN CHILDREN BASED ON PENDING CHARGES

At any time that the Background Investigator and/or Adjudicator becomes aware that a subject has been involved in an arrest or offense enumerated in PL 101-630 or PL 101-647, or if the subject has been involved in any conduct that is major and the conduct or issue, standing alone, would be disqualifying, the subject will be immediately removed from contact with or control over Indian children until the subject can prove that the charges have been dropped or dismissed, the individual has been found not guilty, or acquitted of the alleged crime. If a subject or employee is indicted for a crime that is punishable for more than one year imprisonment, they will be dismissed from employment.

The subject's Supervisor/Department Head will be notified by the Human Resources Department or the Background Investigator and advised that the individual must be removed from duties involving contact with or control over Indian children. However, whether the subject is terminated, put on suspension, or placed in a position that does not involve contact with or control over Indian children is at the sole discretion of the Supervisor/Department Head working in conjunction with the Human Resources Manager.

6-19. CONTINUOUS EVALUATIONS

Individuals who have been found suitable for assignment in a public trust position and/or assignment to duties with regular contact with control over Indian children must continue to meet the character standards while employed by the Tribe. In order to meet the requirements for continuous evaluations, a reinvestigation shall be conducted every five years.

6-20. REINVESTIGATIONS

The Background Investigation Program is responsible for tracking when an individual, subject to a periodic reinvestigation, must complete an updated security package in order to initiate a reinvestigation. In order to apply the reinvestigation process efficiently and fairly the following circumstances indicate when to request a reinvestigation packet. The same investigative forms, screening criteria, and process outlined for initial background investigation will be used for reinvestigations.

- A. Receipt of Adverse Information. Supervisors and Department Heads are required to notify the Background Investigator if they become aware of conduct that may affect an individual's suitability for employment with the Tribe or contact or control over Indian children at any time during the course of employment.

Upon initial receipt of adverse information, a decision will be made as to whether the Background Investigator or the Adjudicator will take action in the best interest of the Tribe. If it is decided that the Background Investigator will address the information, the information will be forwarded to the Adjudicator who will determine whether the adverse information affects access to sensitive information; or whether the individual may continue to have contact with or control over Indian children; or whether continued employment is consistent with the best interests of the Tribe.

- B. **Sources of Adverse Information.** Documented information received on a specific individual from a known source will be considered for review. Such information shall be evaluated against the adjudication criteria and, if necessary, previously adjudicated information shall be re-adjudicated. The Adjudicator will initiate further inquiries if required, and allow the individual an opportunity to refute, correct, explain or update the adverse information by responding, with any information, explanation or documentation which should be considered in reaching a final determination prior to making a final unfavorable determination. A suitability adjudicative determination shall be made using both previous and the new information. Examples of adverse information includes, but is not limited to: negative results from drug tests; documented instances of misconduct on the job; continuing creditor problems affecting the position; filing for bankruptcy; outstanding warrants; arrests; post investigation reports from the FBI; violent or threatening behavior; and/or misuse of information technology applications, systems, programs and/or data. The Adjudicator will complete a case summary for the adverse information, the criteria affected, and the mitigating information that led to a determination.
- C. **Documented Information Received From an Anonymous Source.** The Background Investigator will make attempts to confirm the information provided by the anonymous source. In order to protect the anonymity of the source, no information will be disclosed to the applicant that would reveal the identity of the individual who provided the information. If the information received is not confirmed by a primary party, the information will not be considered. For example, if allegations of criminal conduct are received, the Background Investigator will, when appropriate, initiate law enforcement inquiries, conduct an interview with the person or persons whom the crime was committed against or directly witnessed the crime. If allegations of on the job misconduct are received, the Background Investigator will contact the Supervisor/ Department Head for confirmation. If the information is confirmed, the information will be evaluated against the adjudication criteria and, if necessary, previously adjudicated information shall be re-adjudicated. The Adjudicator will give the subject the opportunity to address the derogatory information prior to making a final determination.

A suitability adjudicative determination shall be made using both previous and the new information. If the allegations cannot be confirmed, the Background Investigator will document all attempts to confirm the allegations in the Official Security File and the case will be considered closed.

6-21. REINSTATEMENTS

If a former Tribal employee, contractor/consultant, or volunteer returns to service after a previous separation, the following procedures shall be followed:

- A. A request for reinstatement or verification of previous investigation should contain the full name, social security number, date of birth, and place of birth of the individual to establish positive identification. The Background Investigator will search the inactive Official Security Files to confirm the type and date of the last investigation conducted for the individual. If an Official Security File is found, the Background Investigator will review the contents of the file records to ensure no disqualifying information is noted for the individual.

- B. An updated security package shall be obtained if more than twelve (12) months have elapsed since separation from employment with the Tribe. A screening and reinvestigation shall be initiated and procedures shall be followed.

- C. A reinvestigation shall also be initiated prior to reinstatement when any of the following conditions exist:
 - 1. The most recent investigation is not at the appropriate level for the position the individual will occupy.
 - 2. The most recent investigation is more than five (5) years old.
 - 3. Previous or new derogatory information was found and had not been resolved.

SECTION 7. EMPLOYMENT AND SEPARATION

7-1. PROBATION

The probationary period is an integral part of the selection process allowing the supervisor to train, observe and evaluate an employee's work in order to determine suitability for regular status in the position. Deficiencies in performance or behavior are to be brought to the employee's immediate attention for correction.

New employees will be subject to a three (3) month probationary period, with the exception of Police Officers who are subject to a twelve (12) month probationary period. At the completion of the probationary period the employee can be changed to regular status, probation extended, demoted or dismissed. The probationary period can be extended up to an additional ninety (90) days at the discretion of the supervisor with proper documentation of noted deficiencies.

The probationary period will be utilized to closely observe the performance of an employee, to identify deficiencies and to develop a training plan to correct any deficiencies; and to reject an employee whose performance is unsatisfactory. The employee will be notified, in writing, if the employee's performance is less than satisfactory and allowed to correct any deficiencies, if feasible. Failure by a Department Head or Supervisor to conduct a timely performance appraisal will constitute an assumption of satisfactory performance.

Prior to the end of the employee's standard probationary period, the Department Head or Supervisor shall submit in writing a performance appraisal and recommendation for appropriate action.

The following action may be taken by the Department Head or Supervisor:

- A. Recommend, based on satisfactory performance by the employee, that the employee be changed in status to a regular employee;
- B. Recommend, based on unsatisfactory performance but likelihood of improvement, or because of unusual circumstances, that the employee's probationary period be extended for a period not to exceed an additional 90 days. The Department Head or Supervisor may recommend extending the probationary period providing proper and accurate written documentation is presented. The Supervisor must complete performance appraisals in a timely manner every thirty (30) days or until regular status is achieved or the employee is dismissed.
- C. Recommend, based on unsatisfactory performance, that the employee be dismissed.
- D. Recommend, based on unsatisfactory performance, that the employee be demoted or returned to a former position, if available.

In all cases the employee shall receive written notice for the action taken. A copy of the action taken, including the reasons thereof, shall be forwarded to the Human Resources Department for inclusion in the employee's personnel file. Probationary employees do not have any grievance rights of action taken by the Supervisor.

A probationary employee may use sick leave and family sick leave earned after the first thirty (30) days of employment, and may take bereavement leave to attend a funeral of an immediate family member after the first thirty (30) days.

A probationary employee earns leave based on hours worked from the first day of employment, however, is not eligible to use annual or vacation leave until probation is completed. At the discretion of the Supervisor, leave without pay may be granted. Police Officers are eligible for annual or vacation leave after ninety (90) days from the date of hire.

7-2. PROMOTION AND TRANSFERS

In order to encourage the career advancement of experienced and competent Tribal employees, the Tribe will make every effort to promote or transfer existing employees into position vacancies of greater or equal responsibilities and compensation for which they are qualified. A promotion or transfer can be an advancement in a position within the program, department or Tribe which gives an employee more or equal responsibilities and compensation.

Promoting or transferring an employee from one classification to another classification may fill a vacant position. Both departments and the employee must approve inter-departmental promotions or transfers.

Employees may transfer accumulated annual/vacation and employee sick leave and family sick leave.

7-3. PROMOTION AND TRANSFER PROCEDURES

- A. Existing employees within the particular program and Tribal structure will be given the opportunity to apply for positions which are at a higher level or equal of responsibility and/or compensation.
- B. In selecting an employee for a position vacancy, the Tribe will give consideration to qualified existing employees of the program. Promotions or transfers are to be based upon evaluation of past performance and the qualifications or capacity to perform duties in the position to be filled.
- C. Promotion or transfer appointments shall serve the normal probationary period for that position. If their performance is unsatisfactory, the employee has the right to return to their former position, provided that the former position has not yet been filled.
- D. When a position becomes vacant, the Tribal Chairman and Department Head may temporarily appoint an existing staff person to a position in the interest of ensuring program activities are continued until the position is advertised and hired.

7-4. SEPARATIONS

All separations require an exit interview by the Human Resources Department. The employee's Supervisor or other responsible Tribal official may also participate in the exit interview.

The employee's final paycheck will not be released until the Department Head or Supervisor gives a written release indicating any outstanding financial obligations to the Tribe are paid and all issued equipment and/or supplies have been returned. If necessary, the Finance Office shall deduct from the employee's final paycheck amounts deemed appropriate as financial obligations due to the Tribe for debts owed.

The last day worked shall be considered the date of separation, and the employee shall be compensated for all unused annual/vacation leave accrued to that date, provided appropriate notice was given to the employer and the employee was of regular status. Probationary employees dismissed during the probationary period are not eligible for compensation of accrued annual/vacation leave.

The Human Resources Department is responsible for notifying former employees, who are covered by the Tribe's group health plan, of their right to continue coverage under that plan.

Requests for employment references should be made in writing to the Human Resources Department and should include a signed authorization by the employee for the release of the requested information. The Human Resources Department will not release employment information without the employee's authorization, and may limit the information to verify the employee's position, job location, and dates of employment with the Tribe.

A. Voluntary Termination (Resignation)

1. An employee desiring to resign shall notify his/her immediate Supervisor in writing at least two (2) weeks prior to the employee's last day of work, specifying the effective date. The resignation notice is to be forwarded to the Human Resources Department for inclusion in the employee's personnel file. Failure to file at least two (2) weeks notice is cause for denial of payment of accrued annual/vacation leave hours. Probationary employees are not eligible for payment of accrued annual/vacation leave hours.
2. The Supervisor may agree to permit a shorter period of notice due to extenuating circumstances or when it is in the best interest of the Tribe.
3. An employee who has submitted a resignation is required to continue to perform the job duties until the separation date. Employees may not substitute leave during the time between notice of resignation and its effective date. A Supervisor can terminate an employee prior to the resignation date if the employee is not performing assigned duties satisfactorily.
4. If an employee verbally resigns, he/she shall submit a written notice of resignation within one (1) working day. If the one (1) working day has elapsed and no written notification has been submitted, the Department Head

or Supervisor shall prepare a written confirmation memorandum of the discussion and the resignation date. A copy shall be given to the employee and a copy placed in his/her personnel file.

5. Once an employee gives notice to resign their position, a job posting will be initiated by the Department Head or Supervisor. Should the employee later change their mind about resigning, they may file an application according to recruitment procedures.

B. Involuntary Termination (Dismissal)

1. An employee may be dismissed by their Supervisor in accordance with disciplinary provisions of this manual.
2. A written Employee Disciplinary Report, signed by the Supervisor shall state the reason(s) for termination with a copy provided to the employee. The original report will be filed in the employee's personnel file.

C. Reduction in Force/Layoff. A layoff is an involuntary separation, through no fault of the employee, which does not adversely affect the employee's eligibility for further employment. Tribal positions within the classified service may be eliminated due to lack of funds, lack of work, reorganization, cost reduction or reallocation of budget to other uses. The Department Head shall cause to layoff any employee without prejudice after giving notice of at least five (5) work days to such employees. However, no regular employee shall be laid off from any department while there are temporary, intermittent, or probationary employees serving in that department.

1. Layoff Procedure: If it becomes necessary for a Tribal employee to be laid off because of lack of funds or work, changes in program, reorganization, the elimination of a position, return of employee with re-employment rights, or some other material change in duties or organization:
 - a. The Department Head or Supervisor shall determine in which classification the reductions in staff will have the least detrimental effect on Tribal operations and shall specify layoffs accordingly.
 - b. Employees who have not achieved regular status, shall be laid off before regular employees in the following order:
 - 1) Intermittent employees
 - 2) Temporary employees
 - 3) Probationary employees

- c. If additional reductions are necessary, regular employees shall be laid off based on lower levels of performance in meeting program needs. Employees who are instrumental in achieving program goals and objectives will have priority in retention.
2. Notice. All employees to be laid off shall be given written notice of the layoff at least five (5) working days before the effective date of the layoff.

It is the affected employee's responsibility to demonstrate his/her interest in, and qualifications for, the classes for which re-employment is sought.

Each lay-off employee retains eligibility for appointment for one (1) year from the date he/she was laid off, except that all re-employment rights are exhausted when a person declines an offer of employment in the class or a comparable class from the department from which he/she was laid off.

A regular employee who has been laid off and is being re-employed in the department and class from which he/she was laid off shall have his/her regular status restored.

A regular employee who is re-employed in a different class or in a different department than from which laid off shall serve a new probationary period.

- D. Suspension. Suspension without pay is an involuntary separation initiated by the Tribe for a limited period of time for disciplinary purposes or internal investigation. A suspension is to be of a temporary nature, not to exceed thirty (30) calendar days. An employee shall be given written notice prior to the effective date, stating the offense, length of suspension, and possible date to return to work, and notice placed in the employee's personnel file. The notice must include supporting documentation of the specific violation(s), dates and times of incident(s), the warning that continuance of this behavior will result in further disciplinary action, an offer of assistance in correcting the behavior, any circumstances affecting the severity of the discipline and advice on right of appeal.

Any employee action warranting further discipline after thirty (30) days of suspension shall be cause for dismissal. However, an employee may be removed at any time for cause regardless of the days of suspension levied.

- E. Demotion. In certain cases, an employee may be moved to a lower level of responsibility and compensation for disciplinary reasons or for the good of Tribal services. The supervisor shall notify the demoted employee at least five (5) working days before the effective date of an action to demote.

- F. Retirement. The Tribe contributes to all employee's Social Security, so employees may choose to retire upon the attainment of a specified age. The Tribe does not prohibit the employment of retired employees where it will promote the best interests of the Tribe.
- G. Disability. Should an employee develop a health or physical condition which would prevent him or her from performing one or more of the essential functions of his or her job, the following steps will be taken in an effort to extend employment:
1. Cooperate with the employee in a sincere effort to develop a reasonable accommodation; or,
 2. Cooperate with the employee in a sincere effort to find an alternative position the employee could perform with or without reasonable accommodation.

Every effort will be made to reassign the employee to a position within the employee's physical and mental capabilities, but not necessarily to a classification with the same salary. If the employee refuses to be reassigned, the refusal terminates the Tribe's obligation to assist employee with reassignment.

- H. Death. Upon the death of a Tribal employee, all compensation and benefits due will be paid to the employee's designated beneficiary in accordance with plan documents. The Human Resources Department will coordinate the issuance of a final paycheck, be the liaison between the family and the insurance company if necessary, and provide other information to the family as required. Separation will be effective as of the date of death.

SECTION 8. EMPLOYEE CONDUCT AND DISCIPLINE

8-1. CONDUCT

The Tribal Council has adopted rules and regulations regarding employee behavior to ensure the efficient operation of the Tribe and for the benefit and safety of all employees. The Tribe will not tolerate behavior or conduct that interferes with operations, discredits the Tribe, or is offensive to customers or coworkers. Employees are prohibited from engaging in any conduct, which could reflect unfavorably upon Tribal service. Employees must avoid any action which might result in or create the impression of using their position for private gain, giving preferential treatment to any person, or losing impartiality in conducting Tribal business.

- A. **Receipt of Monetary Gifts.** No employee shall directly or indirectly seek or accept any payments, fees or services outside the normal course of the employee's business duties, or other gratuities irrespective of size or amount from any other person, company, or organization which does or seeks to do business with the Tribe. Gifts of cash or cash equivalents of any amount are strictly prohibited.
- B. **Transfer of Funds.** No payment or transfer of the Tribe's funds or assets shall be made which is not authorized, properly accounted for, and clearly identified on the books. Furthermore, no payment or transfer of the Tribe's funds or assets shall be made or approved with the intention or understanding that any part of such payment or transfer is to be used except as specified in the supporting documents.
- C. **Illegal Payments.** No employee shall authorize any payment or use any funds or assets for a bribe, "kickback", or similar payment which is directly or indirectly for the benefit of any individual, including any government official, company, or organization, and which is designed to secure favored treatment for the Tribe or any of its employees. Under federal legislation, it is a felony punishable by imprisonment and substantial fines to make payments of this kind to foreign government officials.
- D. **Conflict of Interest.** Employees must avoid investments, associations or other relationships that could conflict with the employee's responsibility to make objective decisions in the Tribe's best interest. *Employees must disclose any financial interest they have in any firm that does business with the Tribe.* The employee is responsible for protecting the integrity of the Tribe. In some cases, this may require disclosing a potential conflict, and if necessary, withdrawing from any involvement. In other cases, the situation may require the employee to eliminate the interest that creates the conflict. *Failure to do so will result in discipline, up to and including termination.*
- E. **Criminal Misconduct.** Violation of policies may expose the Tribe and the individuals involved to lawsuits for damages or restitution and to possible criminal action. Individuals who violate policies are subject to disciplinary action, up to and including termination. Criminal misconduct will also be subject to prosecution in the appropriate court jurisdiction depending on the severity of offense, location and relevant case law.

- F. **Reporting Requirements.** The Tribe expects an immediate report from any employee who believes that a possible unlawful act is taking place which involves the Tribe or any of its employees. The Tribe will take immediate action when such a report is made and, if at all possible, the individual making the report will remain anonymous. Numerous court cases have sustained the right of employees to make such disclosures without fear of retaliation in situations where the act complained of was proven to be unlawful misconduct.
- G. **Privileged Information.** Tribal employees who are involved with plans, programs or information of significant public interest may not use this privileged information without specific appropriate authorization in advance, regardless of purpose or reason. This situation must be reported to the employee's Supervisor immediately. Each employee is charged with the responsibility of ensuring that only information that should be made available to the general public is released through the proper channels. Violation of these provisions regarding privileged information or use for private gain shall be cause for disciplinary action. Information designated as confidential may not be discussed with anyone outside of the Tribe and may be discussed within the Tribe only on a need-to-know basis. In addition, employees have a responsibility to avoid unnecessary disclosure of non-confidential internal information about the Tribe, its employees, and vendors. However, this employee responsibility to safeguard internal Tribal affairs is not intended to impede normal business communications and relationships.

Employees authorized to have access to confidential information may be required to sign special nondisclosure agreements and must treat the information as proprietary Tribal property for which they are personally responsible. Employees are prohibited from attempting to obtain confidential information for which they have not received authorization. Employees violating this policy will be subject to discipline, up to and including termination, and may be subject to legal action. Department Heads and Supervisors are responsible for identifying information that should be classified as confidential and to develop procedures to secure and control the information. Information that is designated as confidential should be clearly identified and properly secured. A list of employees authorized to have access to the information should be prepared, and all access should be recorded.

All media inquiries or other inquiries of a general nature should be referred to the Tribal Chairman's office. In addition, all press releases, publications, speeches or other official declarations on behalf of the Tribe must be issued from the Tribal Chairman's office or approved by the Tribal Chairman and/or the Tribal Council.

- H. **Non-Smoking Policy.** Smoking will only be permitted in the designated areas located outside all Tribal facilities.

- I. **Use of Communication Systems.** The Tribe provides the communications and equipment necessary to promote the efficient conduct of its business. Most communication services and equipment have toll charges or other usage-related expenses. Employees should be aware of these charges and consider cost efficient needs when implementing the proper vehicle for each business communication. Employees should consult their Supervisor if there is a question about the proper mode of communication. All Tribal communication services and equipment, including the messages transmitted or stored by them, are the sole property of the Tribe. The Tribe may access and monitor employee communications and files as it considers appropriate. Communication equipment and services include mail, electronic mail ("e-mail"), courier services, facsimiles, telephone systems, personal computers, computer networks, on-line services, Internet connections, computer files, telefax systems, video equipment and tapes, tape recorders and recordings, pagers, cellular phones, and bulletin boards. Conveying personal messages that are not work related via e-mail is considered inappropriate and must be avoided. Employees inappropriately using e-mail for personal purposes are subject to disciplinary action, up to and including termination of employment. Employees are reminded that e-mail messages do not always remain private. Accordingly, employees must use discretion when using e-mail to communicate.

To protect data and software on Tribal program computers, employees are prohibited from loading personal software onto Tribal computers. Employees may not copy Tribal program software for personal use. As the owner of program work files, computers, and work areas, the Tribe reserves the right to access these items at its discretion.

- J. **Political Activity.** Tribal employees are encouraged to exercise their political rights as citizens, vote as they choose, support candidates of their choice and express their political opinions outside of the working hours.

Employees may not:

1. Use his/her position or influence for the purpose of interfering with or affecting the result of an election or nomination for office.
2. Directly or indirectly coerce, attempt to coerce, command or advise a fellow employee or another official to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes.
3. Be a candidate for public elective office in a partisan election. This excludes being a candidate for Tribal elective office.
4. Engage in any political activity during scheduled working hours or while on duty or neglect their assigned duties or responsibilities because of political involvement.

- K. **Sexual Harassment Prohibited.** The Tribe prohibits sexual harassment in any form of any employee, male or female. An employee of the Tribe who is accused of sexual harassment of another employee or persons contacted through the course of work will be subject to disciplinary action if the allegation is found to be factual following appropriate investigative procedure.

If employment opportunities, benefits or services are granted or denied contingent on an individual's submission to sexual advances or requests for sexual favors, such decisions and/or actions may be the basis for a claim of unlawful sexual harassment.

Notification & Complaint Procedure: An individual who believes he/she has been the subject of sexual harassment should report in writing, the alleged act immediately to the Department Head, Supervisor or the Human Resources Manager. Upon receiving a written complaint, an investigation will be conducted immediately.

Employees are encouraged to cooperate and avail themselves to the complaint process of the Tribe in resolution of the complaint.

8-2. DISCIPLINE

Listed below are work rules for the Tribe. These rules are listed to minimize the likelihood of any employee, through misunderstanding or otherwise, becoming subject to disciplinary action. Every employee must conform to these standards of conduct, even though misconduct is not the only reason for which any employee may lose his/her job. There may be other reasons or circumstances deemed solely by the employer to make dismissal necessary.

The work rules and disciplinary steps listed here are not meant to be all-inclusive, but are merely illustrative, and can be altered by the Tribe. Accordingly, the absence of any rule shall not restrict the right of the Tribe, in carrying out its function, to otherwise manage, direct or discipline its employees. Other work rules and policies may be referred to elsewhere in this manual or may be included in specific departmental policies.

Discipline shall be reasonable and applied in keeping with the severity of the employee's position and be of such a nature as to not affect the Tribe's interests or rights. There are established two levels for disciplinary action: Progressive Disciplinary Action and Immediate Disciplinary Action.

A. Causes for Progressive Disciplinary Action

It is the responsibility of all employees to consistently abide by all procedures, policies and rules established by the Tribe and to respond promptly and positively to directions from supervision.

1. Failing to follow specified job instructions and maintaining productivity standards.
2. Engaging in personal business or leisure activity during work time; sleeping or loitering on the job; engaging in horseplay.

3. Making disparaging remarks about the Tribe, its facilities or personnel, or the services provided; general rudeness, insolence.
4. Engaging in any conduct which may reflect unfavorably upon the Tribe's reputation, good will or standing in the community; adversely affect the Tribe's current business or future business; or render the employee less effective, credible or desirable as a representative of the Tribe.
5. Unauthorized absence and/or chronic tardiness; unauthorized departure from the worksite; stretching breaks or meal periods.
6. Using profane, crude, obscene, or sexually suggestive language. Possessing, displaying, selling, or distributing obscene/pornographic material.
7. Operating a Tribal vehicle in such a manner as to contribute to or cause failure of or damage to that vehicle because fundamental service requirements were not reported, requested or performed on a timely basis. This refers to, but is not limited to, such matters as maintaining and checking engine coolant or anti-freeze, transmission fluid, engine oil, brake fluid, tire pressure, etc.
8. Tampering with any Tribal machine, device, controls or other equipment; tampering with procedures, programs, systems or records.
9. Failing or refusing to observe or comply with safety procedures, rules, policies, standards or directives established by the Tribe or provided under law or regulation.
10. Using Tribal business telephones and other communications (e-mail, internet, facsimile, voicemail) for personal matters or for improper purposes that are offensive, threatening, harassing or protected by copyright.
11. Violation of any other Tribal rule known to the employee.

B. Causes for Immediate Disciplinary Action/Dismissal

Supervisors should make every attempt to be fair and to match the disciplinary action with the severity of the offense. Violation of these rules could result in waiving the progressive procedure and bring about immediate disciplinary action, including dismissal of the employee or employees involved.

1. Falsifying (by deed or omission) personnel or work records including, but not limited to, the employment application, medical history record, invoice, time record, investigative questionnaires or any other Tribal document.

2. Removing or the unauthorized divulging of confidential Tribal records, including violation of individual privacy without proper consent.
3. Being under the influence of intoxicants or drugs, possessing or selling illegal substances during work hours or while on Tribal premises. Being at work without proper dosage of any prescribed medications; abusing, selling or transferring of prescribed medications. Failing to comply with the Tribe's drug and alcohol testing policy.
4. Theft; intentionally removing, using or misappropriating Tribal property or another's property without authorization.
5. Defacing, damaging, destroying, writing or painting upon or abusing Tribal property, tools, equipment or the property of another.
6. Failing or refusing to be forthright, open or truthful or withholding information or evidence concerning matters under review or investigation by the Tribe; fabricating information or evidence or conspiring with another to do so in the course of a Tribal review or investigation.
7. Insubordination; an intentional refusal to obey a direct order, reasonable in nature, and given by a Supervisor with proper authority; a knowing violation or refusal to observe a properly adopted policy of the Tribe or department.
8. Threatening or attempting to intimidate another; challenging someone to a fight; provoking a fight; engaging in assault or battery.
9. Endangering the health or safety of others or which results in injury or death; failing to report an injury, accident, or suspected child abuse.
10. Possessing or concealing any item or object that can be construed as a dangerous weapon.
11. Operating a vehicle while on Tribal business in a manner which does or could cause damage to the vehicle or to the vehicle of another, and/or personal injury or death. Failure to use seatbelts; permitting unauthorized passengers in Tribal vehicles (except for life-threatening/emergency situations.)
12. Failing to exercise care in the transport, record keeping or safeguarding of all forms of Tribal assets; mismanaging Tribal funds, assets, and/or failing to accurately account for Tribal revenue and property.
13. Abusing or neglecting job duties, any customer, patient, or client; acting in behalf of the Tribe without specific prior approval.

14. Being convicted or pleading guilty to any crime, whether or not such crime is committed against the Tribe, any of its employees or against anyone else, when such conviction is detrimental to the nature of the employee's work and continued employment could seriously jeopardize the interests of the Tribe, its employees or others.
15. Refusing to submit to any examination, test or assessment required by the Tribe.
16. Discriminating against individuals based on race, religion, color, sex, national origin, citizenship status, age, handicap, disability, sexual orientation or any other status protected under federal or local laws.
17. Neglect of duty; ineffectiveness in fulfilling program responsibilities; being careless in the job performance; failing to maintain education/training requirements.
18. Having an unfavorable background investigation.
19. Abandonment of position, such as quitting by walking off the job; failing to report to work and making direct contact with the supervisor to whom he or she normally reports on one (1) particular work day (no-call/no-show).
20. Violating departmental policies, ethics and/or rules of conduct.

8-3. ADMINISTRATION OF DISCIPLINE

When discipline is applied to an employee for violating a rule or committing an offense, the purpose is to restore him/her to complying with established standards, not to punish merely for the sake of punishment. Discipline should be corrective, not punitive.

8-4. SUPERVISORY RESPONSIBILITIES

The following list of supervisory responsibilities serve as a guide to help prevent discipline problems from occurring:

- A. Clearly communicate applicable rules, regulations and job expectations.
- B. Maintain a highly motivated work environment by encouraging upward mobility.
- C. Provide employees with proper tools to perform their jobs. Encourage the development of existing skills and training to acquire new skills.
- D. Instruct employees on the proper use of the Tribe's communication services and equipment used for both internal and external communication.

- E. Maintain a system of open, two-way communication. Coach and counsel employees as appropriate.
- F. Know each employee's skills, interests, and potential, and treat each employee as an important individual.
- G. Set a proper example.
- H. A Supervisor cannot "back-date" documents. Documentation and discipline must occur at the time of the offense in order to be valid and filed with the Human Resources Department to ensure documents are filed in the employee's personnel file.
- I. The seriousness of an offense, the frequency of its occurrence; its effect on productivity, other employees, on the Tribe as a whole; an employee's overall employment history; and all contributing circumstances will determine the degree of discipline to be administered.
- J. Supervisors are cautioned against acting hastily. Be certain all the facts have been gathered and objectively evaluated before deciding a course of action.
- K. Supervisors must be certain to apply discipline consistently and without bias.
- L. Supervisors are urged to consult with the Human Resources Department before taking any action.

8-5. PROCESSING DISCIPLINARY ACTIONS

The Supervisor is responsible for informing employees immediately when the employee's behavior or job performance is unacceptable. Purely as an optional accommodation and at the Tribe's sole discretion, misconduct by an employee may be handled on a progressive discipline basis---that is, verbal warning followed by a written reprimand followed by a suspension followed by dismissal. However, the fact that a progressive form of discipline is possible does not mean it will be followed in every instance. The severity of the offense may require immediate dismissal or some other serious disciplinary action in keeping with the nature of the offense.

The Tribe's policy is not intended to be arbitrary. Common sense is the guiding factor. The Tribe will make a reasonable effort to be consistent in its discipline and terminations and attempt to treat everyone with similar circumstances in the same way. The Tribe's objective in applying discipline is to achieve reform or compliance. This is accomplished when an employee accepts the facts of a reprimand and agrees to improve conduct or work performance to an acceptable level and maintain it at the level thereafter. Employees who resist discipline or fail to agree that improvement is required will find their jobs in jeopardy or may lose their jobs. Termination is the last resort and is used only when performance or behavior continues to be clearly unacceptable after the complete range of performance appraisal steps and progressive discipline procedures have been tried. If an employee presents a serious threat to the health or safety of others, immediate dismissal is justified.

The disciplinary process used to maintain Tribal standards of conduct may be determined on the basis of the facts of individual cases. Each case may be considered in light of: the employee's length of service and employment record; the seriousness of the incident and its circumstances; the nature of any previous incidents and when they occurred; the general practice, rule or requirement as it relates to the incident; mitigating circumstances, and how similar cases were handled.

A. Types of Disciplinary Actions that may be utilized:

1. **Verbal Warning.** Whenever grounds for disciplinary action exist and the Supervisor determines that more severe action is not immediately necessary, the Supervisor should verbally communicate to the employee the Supervisor's observation of the deficiency at the time. Whenever possible, sufficient time for improvement should precede formal disciplinary action. Verbal warnings should always be conducted in private. The Supervisor should explain, clearly and concisely, the offense, the date of offense, specific information if not personally observed, and any other pertinent data.

An informal record of the verbal warning will be made for reference in case future offenses occur. Verbal warnings can be officially documented. Verbal warnings should be given as soon after an offense has occurred as possible.

2. **Written Reprimand.** The Supervisor may reprimand for cause. A written reprimand is a statement of the offense that occurred, who was involved, when and where the offense took place, and why it warrants disciplinary action. The contents should contain facts only. Reference should also be made to previous verbal warnings. Employees must be given an opportunity to read the contents of the written reprimand and make any comments they wish. They should also be urged to sign the reprimand, indicating that they have seen and read the reprimand and understand its contents. Signature does not necessarily mean agreement, only understanding. Refusal to sign shall be so noted by the Supervisor or witnesses.

If an employee receives two (2) written reprimand notices (for the same or different offenses) within a period of twelve (12) consecutive months, the employee shall, along with the second such notice receive disciplinary action commensurate with the severity of the accumulated offenses. Upon receipt of the third written reprimand notice, for the same or different offenses within the same consecutive twelve (12) month period, the employee can, at the time of issuance of the third such notice, thereupon be dismissed.

A copy of each written reprimand will be placed in the employee's personnel file and a copy given to the employee. The immediate Supervisor will sign the first two (2) reprimands. The third reprimand shall also require the signature of the Department Head, if applicable.

3. **Suspension.** The Supervisor may suspend an employee with or without pay, for up to but not exceeding thirty (30) calendar days, as a disciplinary measure or pending an investigation. The employee shall be furnished with a written copy of the statement setting forth reasons for suspension and a copy shall be placed in the employee's personnel folder.
4. **Demotion.** The Supervisor may demote or reduce in grade any regular employee in the department for either the good of the service or for a disciplinary measure for cause.
5. **Dismissal.** A Department Head may at the recommendation of the Supervisor dismiss an employee in the department for disciplinary action. A copy of disciplinary report and employee action notice shall be filed in the employee's personnel folder.

8-6. APPEALS

Regular employees may appeal any disciplinary action in accordance with the appeal process of this manual.



SECTION 9. EMPLOYEE GRIEVANCE AND APPEALS

9-1. PURPOSE

The purpose of the grievance procedure is to provide a uniform and equitable method of resolving grievances as quickly as possible and at the lowest possible level of supervision. This procedure is intended to assure an employee that any grievance will be heard and that corrective action taken will be without reprisal or discrimination against the employee for submitting the grievance.

Every reasonable effort should be made by Supervisors and employees to resolve any questions, problems and misunderstandings. Employees should first discuss any complaint or questions with their Supervisor unless the matter is of a sensitive or personal nature, in which case an employee may approach any member of management with whom he or she feels comfortable. Employees are urged to initiate such discussions at the time the problem or question arises and not delay an approach to management. The Supervisor or management, in turn, should take positive and prompt action to answer employee's questions and resolve complaints presented to them.

A regular employee who is aggrieved by any action as related to working conditions and relationships, or pertaining to any term, condition or privilege of employment, or to Tribal Policies, department rules and regulations, and which cannot be resolved through informal discussions with the supervisor, may file a grievance under the provisions of this section within five (5) working days after the occurrence of the action in question. This five (5) day limitation may be waived if, through no fault of the employee, he or she was unaware of the action before the expiration of the time limits.

Grievances shall include, but are not limited to: Application of Tribal policies, practices, rules, regulations, and procedures believed to be to the detriment of an employee; treatment considered unfair by an employee, such as coercion, reprisal, harassment, or intimidation; alleged discrimination because of race, color, religion, national origin, sex, age, military status, disability, marital status, or any other non-merit factor; and, improper administration of employee benefits or conditions of employment. Only the grievance presented originally shall be considered on appeal. To ensure this, a copy of the original grievance shall be filed with the Human Resources Department.

Similar grievances may be consolidated and processed together as a single issue. Every effort should be made by the parties to resolve the grievance at the lowest possible level. The original grievance will be monitored through each step of the grievance/appeal procedure to record responses from appropriate staff. Copies of the grievance, appeal and related records will be kept in the respective department where originated. The employee should keep a copy of the grievance form recording responses from each step of the process for his/her own record.

All parties involved in the grievance process shall refrain from discussing personnel actions outside of the proceedings described below. The privacy of the involved parties shall be respected to the greatest extent practicable. Failure to do so may be grounds for discipline. All employees involved in a grievance process shall continue to fulfill their assigned duties, unless otherwise relieved of these duties through the initial disciplinary action.

9-2. PROCEDURE

If a formal grievance is filed, it shall be filed and processed in the following manner.

Failure by management to render a decision within the allotted time at any step constitutes a default, and the employee may then proceed to the next step. Failure by an employee to proceed to a higher step within the specified time limits will terminate the grievance.

Step 1. The grievance shall be submitted to the Immediate Supervisor unless the cause of the grievance occurs at a higher level in which case it shall commence at that level. A written grievance should include the following information: 1) A clear and concise written statement of the facts surrounding the complaint; 2) A statement of which rule or policy has been violated, if applicable; 3) A statement of the remedy or correction the employee is requesting; 4) Any other pertinent information, such as persons involved or with knowledge of the situation; 5) Efforts made to resolve the problem or concern at the department level; 6) The employee's signature.

The Immediate Supervisor will render a written decision to the employee within five (5) working days of the filing date.

If the grievance remains unresolved or the decision is considered unacceptable, the employee may proceed to Step 2.

Step 2. Within three (3) working days after the receipt of the decision in Step 1, or after the decision is due, the employee may present the written grievance and such decision to the appropriate Department Head. **The Department Head will render a written decision to the employee within five (5) working days of appeal receipt.** If the grievance remains unresolved or the decision is considered unacceptable, the employee may proceed to Step 3.

Step 3. Within three (3) working days after the receipt of the decision in Step 2, the employee or their representative may present the grievance in writing to the Human Resources Department, who will schedule a Grievance Hearing with the Appeals Board within five (5) working days of appeal receipt. **The Appeals Board will render a decision by majority vote and submit it to the employee, Supervisor, and Department Head within five (5) working days from date of the Grievance Hearing.**

The decision of the Appeals Board will be binding. The Appeals Board will have the power to reverse personnel actions and order corrective actions and remedies.

9-3. APPEALS BOARD

The Appeals Board consists of three (3) members. The Tribal Chairman will select individuals from eligible Tribal employees to serve as Appeals Chairperson and alternates. Regular and part-time employees of the Tribe are obligated to participate in an appeal hearing, if selected.

Appeals Board members must meet the following criteria for inclusion in the Appeals Board pool: employed by the Tribe for at least twelve (12) months; not currently under disciplinary action; fair-minded; no conflict of interest with parties involved in the appeal; and be familiar with Tribal Personnel Policies and Procedures.

Board members are selected by the Appeals Board Chairperson from the following categories: 1) An individual from the Tribe's management staff or non-exempt staff, not involved with the appeal. 2) An individual from the community who has a background of Tribal policies and procedures. Individuals selected for service on the Appeal Board must disclose to the Human Resources Department any conflict of interest upon selection.

If an employee wishes to pursue their appeal after receiving a decision from the Supervisor and Department Head, they must present a written request to the Human Resources Department to empanel the Appeals Board. This request must be filed within three business days of receiving the Department Head's response. Failure to file within the three-day limit is an automatic loss of the right to appeal.

The Appeals Board utilizes approved Tribal Personnel Policies and Procedures as a guideline for the appeals process and hearing procedure. The Appeals Board will only accept requests for appeals after the employee has exhausted all other avenues of appeal including appeal to the Supervisor and Department Head. Members of the Appeals Board shall not participate in a Grievance Hearing when immediate family is involved, or where a conflict-of-interest exists, such as personal involvement, close personal associations or personal prejudices.

Within five (5) working days of appeal receipt in Step 3 of Appeals Procedure, the Appeals Board shall meet for the purpose of considering the action. A written notice of the date and time of the Grievance Hearing will be forwarded to the Supervisor, Department Head and the aggrieved employee. The Appeals Board will consider all written documentation regarding the disciplinary action as well as appropriate oral testimony from the Supervisor and employee or others involved. The Appeals Board may choose to interview other interested witnesses and/or subject matter experts.

It is the responsibility of the Department Head or Human Resources Department to provide written documentation from the employee's personnel file, which pertains to the disciplinary action for review by the Appeals Board.

Based upon the information and testimony gathered during the hearing the Appeals Board will approve, disapprove, modify or rescind the disciplinary action based on the information presented. This decision is to be a majority vote of the empanelled Appeals Board.

The Appeals Board Chairperson will draft a final decision for the Appeals Board review and approval. The final decision is to contain the following: 1) Final ruling and instructions for resolution, if any. 2) Statement that the Appeals Board decision is final and binding. No further action by the Appeals Board or Tribal management is allowed under the Tribal Grievance Policy. An appeal is an internal administration matter. 3) Dated signatures of Appeals Board members.

Appeal Board members are bound by the policies and practices of the Tribe regarding confidentiality and will sign a nondisclosure memorandum of understanding. Members of the Appeals Board will not share information from the appeal with any other person(s) outside of the Appeals Board without the express written permission of the Appeals Board Chairperson. Failure to maintain confidentiality will result in disciplinary action up to and including termination.

9-4. THREATS/DENIAL OF RIGHTS

If an employee is denied the opportunity to present a grievance as prescribed by this section, or if the employee is threatened or subjected to duress when presenting the grievance, the employee may so notify the Tribal Chairman in writing. The Tribal Chairman or designee shall investigate such complaints and initiate appropriate disciplinary action as needed.

SECTION 10. ATTENDANCE AND LEAVE

10-1. ATTENDANCE AND PUNCTUALITY REQUIREMENTS

It is the policy of the Tribe to require employees to report for work punctually and to work all scheduled hours and any required overtime. Excessive tardiness and poor attendance disrupt the Tribe's workflow and will not be tolerated.

- A. Supervisors will notify employees of their start, end, and break times. Employees are expected to be engaged in carrying out their duties during work time and ready to begin working at their scheduled start time. Supervisors will record all absences, tardiness or early departures.
- B. Employees must notify their Supervisor, as far in advance as possible, whenever they are unable to report for work, know they will be late, or must leave early. Such notification should include a reason for the absence and an indication of when the employee can be expected to report back to work.
- C. Employees are required to notify their supervisor of their absence from work at least one hour before, or one hour after, the start of their shift or as appropriate for their department. If the office is not open, the employee should directly contact the supervisor at an alternate place or leave a voice mail message.
- D. Employees are to be compensated during authorized absences in accordance with leave provisions. Non-exempt (hourly) employees will not receive compensation for time missed because of tardiness or early departure. Failure by the employee to properly notify their supervisor of any absence may result in loss of compensation during the absence and may be grounds for disciplinary action.
- E. Employees who are delayed in reporting for work and have not notified their Supervisor of their expected tardiness may lose their right to work the balance of the workday. In addition, employees who report for work without proper equipment or dressed in inappropriate attire may not be permitted to work. Employees who report for work in a condition considered unacceptable for work, whether for illness or any other reason, will not be allowed to work.
- F. Employees are expected to report for work during inclement weather conditions if the Tribe does not declare an emergency closing. Non-exempt (hourly) employees who are unable to report because of weather conditions will be granted an authorized unpaid absence. Non-exempt employees who are late because of weather conditions will be given a chance to make up their missed time if work schedules and conditions permit.
- G. Employees will not be required or permitted to work any period of time before or after scheduled starting or quitting times for the purpose of making up time lost because of tardiness, unauthorized absence, authorized absence, or any other reason.

- H. Employees must report to their Supervisor after being late or absent, give an explanation of the circumstances surrounding their tardiness or absence, and, when applicable, certify that they are able to return to work. The Supervisor should record the information and forward the information to the Human Resources Department if disciplinary action is taken. All disciplinary notices must be included in the employee's personnel file. When appropriate, the Supervisor should counsel the employee on the importance of good attendance and warn that excessive tardiness or absences will lead to discipline, up to and including termination.
- I. Unauthorized or excessive absences or tardiness will result in disciplinary action, up to and including termination. An absence is considered to be unauthorized if the employee has not followed proper notification procedures or the absence has not been properly approved.
- J. Employees who are absent from work without notice to their immediate supervisor (no call/no show) for one (1) day will be considered as having voluntarily resigned.

10-2. HOURS OF WORK

The normal workweek consists of five (5) consecutive eight (8) hour days. The normal workday will consist of eight (8) hours of work with an unpaid half-hour meal period (lunch or dinner), as applicable. Rest or coffee breaks are paid time. Employees will be entitled to two (2) fifteen minute breaks per day, one in the first half of shift and one in the second half of shift.

The Supervisor or Department Head will determine the schedule of hours for employees. The Supervisor will inform employees of their daily schedule of hours of work, including meal periods and rest or coffee breaks, and of any changes that are considered necessary or desirable by the Tribe especially in occupations where the best interest of the Tribe is served by extended or different hours of work. The Supervisor may approve use of flexible hours or modified work schedules.

Supervisors or Department Heads may schedule overtime or extra shifts when it is necessary. Supervisors will assign overtime to non-exempt employees in the particular job for which overtime is required. Employees are not permitted to work overtime without the prior approval of their Supervisor or Department Head. For the purposes of overtime compensation, only hours worked in excess of forty (40) during a single workweek will be counted. Whenever possible, supervisors are expected to grant compensatory time off during the pay period, for time worked in excess of normally scheduled work hours.

Employee attendance at job-related lectures, meetings, and training programs will be considered hours of work if attendance is requested by management.

10-3. WORK TIME RECORDATION

All employees must accurately record work time on a daily basis. The time clock/card is the official record-keeper for computing hours of work and pay. When an employee stops working, such as taking a lunch period or leaving the worksite, an "out" time is recorded, then "in" time upon return. Employees will not have to clock in and out for normal breaks.

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Employees are allowed to record time only for themselves, not for other employees. If there are any changes on a card, the timecard must be initialed. In the event that an employee fails to use the time clock to clock in or out, time will be written in and initialed immediately adjacent to the time. However, write-ins must be kept to a minimum. When a timecard is completed for the appropriate pay period, the employee signs the timecard with their name in full. On a day of absence, write in the reason such as leave, holiday, sickness, etc. At the end of the pay period an employee is required to sign the timecard and attach to the signed timesheet.

An employee is prohibited from clocking in early or clocking out late without specific authorization in advance from the Supervisor. Make every effort to work and record no more than the scheduled hours, unless otherwise approved or directed by the Supervisor. Whenever an employee stops work, such as taking a meal period or leaving his/her job, the "out" time is recorded, then "in" time upon return. Do not punch out for "breaks." Docked time will begin at eight (8) minutes and will be penalized at fifteen (15) minute intervals. Therefore, if an employee is eight (8) minutes or more late, the employee will be docked 15 minutes. If an employee is 23 minutes or more late, the employee will be docked 30 minutes; if the employee is 38 minutes or more late, the employee will be docked 45 minutes; if the employee is 53 minutes or more late, the employee will be docked 60 minutes (1 hour). Time lost because of tardiness may not be made up.

Timecards not fully and properly filled out will be returned to the employee for completion. It is to the advantage of the employee to handle timecards properly in order to avoid any delay in payment of earned wages.

Altering, falsifying, tampering with time records, or recording time on another employee's time record can result in disciplinary action, up to and including termination of employment. It is the employees' responsibility to sign their time records to certify the accuracy of all time recorded. The Supervisor will review and sign the time record before submitting it for payroll processing. In addition, if corrections or modifications are made to the time record, both the employee and the supervisor must verify the accuracy of the changes by initiating the time record.

If an employee cannot be found during regular work hours by his/her Supervisor or other staff because he/she left their designated worksite or the facility without approval during their assigned work hours, the Supervisor may take the timecard and clock him/her out for the day.

To avoid complaints that staff are not on site performing duties or not present at the designated worksite, designated work days and work hours for each staff member will be posted in a public place. Every effort will be made to keep the facility open for business during work hours.

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Time cards not fully and properly filled out will be returned to the employee for completion. It is to the advantage of the employee to handle time cards properly in order to avoid any delay in payment of earned wages.

Altering, falsifying, tampering with time records, or recording time on another employee's time record can result in disciplinary action, up to and including termination of employment. It is the employees' responsibility to sign their time records to certify the accuracy of all time recorded. The Supervisor will review and sign the time record before submitting it for payroll processing. In addition, if corrections or modifications are made to the time record, both the employee and the supervisor must verify the accuracy of the changes by initialing the time record.

If an employee cannot be found during regular work hours by his/her Supervisor or other staff because he/she left their designated worksite or the facility without approval during their assigned work hours, the Supervisor may take the timecard and clock him/her out for the day.

To avoid complaints that staff are not on site performing duties or not present at the designated worksite, designated work days and work hours for each staff member will be posted in a public place. Every effort will be made to keep the facility open for business during work hours.

10-4. ABSENCE WITHOUT LEAVE

When an employee is absent without advance authorization, or does not have an acceptable excuse for absence, the employee will be charged as Absent Without Leave (AWOL). Charging Absence Without Leave in these cases provides evidence of irregular attendance and such charges may be used as a basis for disciplinary action.

10-5. AUTHORIZATION OF LEAVE

No payment for any leave of absence will be made until leave has been properly approved by the Supervisor. Regular part-time employees will be eligible for pro-rated leave benefits based on their assigned hours of work.

10-6. ANNUAL LEAVE

- A Purpose. Annual leave is provided and used for allowing employees a vacation period for rest and recreation, and allowing periods of time off for personal and emergency reasons.

The taking of annual leave is a right of the employee, subject to the right of the Supervisor having authority to approve annual leave to schedule the time at which leave may be taken. Except in emergencies, employees will be required to obtain prior approval of annual leave.

- B. Accumulation. Full-time employees shall be entitled to annual leave according to the following schedule for Tribal service:

<u>Length of Employment</u>	<u>Rate of Leave Accumulation</u>
Less than 5 years	2 hours per week
5 to 10 years	3 hours per week
Over 10 years	4 hours per week

- C. Eligibility. Employees may use annual leave after completion of the probationary period. Probationary employees accrue annual leave from the date of hire, but cannot use annual leave until the probationary period is completed and regular status is granted.

Temporary or intermittent employees are not eligible for accrued leave, or other benefits. Part-time employees will earn annual leave on a pro-rated basis according to assigned hours.

- D. Use of Annual Leave. Approval and timing of vacations will be determined by the department with due regard to the employee's wishes and needs of the service. Annual leave should normally be taken within one calendar year from the day earned. However, eighty (80) hours may be carried over into a new calendar year with the understanding that if the organization, program or contract, is not refunded for the next fiscal year, the carry-over hours will not be paid to them. Leave over eighty (80) hours at the end of a calendar year will be forfeited, without compensation to the employee.

- E. Payment for Unused Annual Leave. A regular employee whose employment is terminated will be paid for unused accumulated annual leave when proper notice is given or when in the best interests of the Tribe.



SECTION 10. ATTENDANCE AND LEAVE POLICY

10-6. ANNUAL LEAVE

- A. Purpose. Annual leave is provided and used for allowing employees a vacation period for rest and recreation, and allowing periods of time off for personal and emergency reasons.

The taking of annual leave is a right of the employee, subject to the right of the Supervisor having authority to approve annual leave to schedule the time at which leave may be taken. Except in emergencies, employees will be required to obtain prior approval of annual leave.

- B. Accumulation. Leave shall be accumulated for hours worked, Administrative Leave accrual is not allowable. Full-time employees shall be entitled to annual leave according to the following schedule for Tribal service:

<u>Length of Employment</u>	<u>Rate of Leave Accumulation</u>
Less than 5 years	2 hours per week
5 to 10 years	3 hours per week
Over 10 years	4 hours per week



- C. Eligibility. Employees may use annual leave after completion of the probationary period. Probationary employees accrue annual leave from the date of hire, but cannot use annual leave until the probationary period is completed and regular status is granted.

Temporary or intermittent employees are not eligible for accrued leave, or other benefits. Part-time employees will earn annual leave on a pro-rated basis according to assigned hours.

- D. Use of Annual Leave. Approval and timing of vacations will be determined by the department with due regard to the employee's wishes and needs of the service. Annual leave should normally be taken within one calendar year from the day earned. However, one hundred twenty (120) hours may be carried over into a new calendar year with the understanding that if the organization, program or contract, is not refunded for the next fiscal year, the carry-over hours will not be paid to them. Leave over one hundred twenty (120) hours at the end of a calendar year will be forfeited, without compensation to the employee.
- E. Payment for Unused Annual Leave. A regular employee whose employment is terminated will be paid for unused accumulated annual leave when proper notice is given or when in the best interests of the Tribe.
- F. Covid Period Annual Leave Balance. Employees who are unable to utilize their annual leave in accordance to D. Use of Annual Leave, due to the Covid Pandemic shall be allowed to carry over their annual leave balance (depending upon funding availability).

10-7. HOLIDAYS

The following days will be observed as days off with pay:

- New Years DayJanuary 1st
- Martin Luther King Day3rd Monday in January
- President’s Day3rd Monday in February
- Pyramid Lake War Memorial3rd Friday in May 
- Memorial DayLast Monday in May
- Independence DayJuly 4th
- Labor Day1st Monday in September
- Indian Day4th Friday in September
- Nevada DayLast Friday in October 
- Veteran’s DayNovember 11th
- Thanksgiving Day4th Thursday in November
- Family Day4th Friday in November
- Christmas DayDecember 25th

In addition to the listed holidays, the Tribe will also observe any day declared a Holiday by the Governor of Nevada, the President of the United States or the Pyramid Lake Paiute Tribal Chairman. If a holiday falls on a Saturday or Sunday, it will usually be observed on either the preceding Friday or the following Monday. The Tribe reserves the right to designate when the holiday will be observed. If a holiday falls within an employee’s vacation period, the holiday will be paid as holiday pay and not annual/vacation pay.

Employees absent the day before or the day after a holiday will not receive holiday pay, unless on approved leave, such as jury duty, vacation, or the like. To be paid for a holiday, you must be present on the scheduled working day immediately preceding the holiday and the scheduled working day immediately following the holiday. Department Heads or Supervisors at their discretion may make exceptions to this rule if arrangements are made seven (7) days in advance of the day to be missed or a doctor’s note is presented explaining an illness or disability.

Holiday pay will be eight (8) hours or the normal working hours at the employee’s regular hourly rate. An hourly employee working other than a standard work week is entitled to the same number of paid holidays as a regular employee working the equivalent standard work week. Because of the nature of Tribal business, employees may on occasion be required to work on a holiday. When this occurs, with the exception of salaried employees, pay will be at the regular hourly rate of pay for the actual hours worked that day, in addition to the holiday pay to which the employee is entitled. When an exempt salaried employee works on a holiday, he/she may be authorized time off with pay, at a later date of convenience within the following pay period, equal to the amount of time worked on the holiday.

The Tribe will reasonably accommodate employees who need time off for religious observances. Employees who need time off to observe religious practices should first speak with their Supervisor. Depending upon business needs, you may be able to work on a day that is normally observed as a



10-7. HOLIDAYS

The following days will be observed as days off with pay:

- New Years DayJanuary 1st
- Martin Luther King Day3rd Monday in January
- President's Day3rd Monday in February
- Pyramid Lake War Memorial3rd Friday in May
- Memorial DayLast Monday in May
- JuneteenthJune 19th
- Independence DayJuly 4th
- Labor Day1st Monday in September
- Indian Day4th Friday in September
- Nevada DayLast Friday in October
- Veteran's DayNovember 11th
- Thanksgiving Day4th Thursday in November
- Family Day4th Friday in November
- Christmas Day December 25th

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Employees absent the day before or the day after a holiday will not receive holiday pay, unless on approved leave, such as jury duty, vacation, or the like. To be paid for a holiday, you must be present on the scheduled working day immediately preceding the holiday and the scheduled work day immediately following the holiday. Department Heads or Supervisors at their discretion may make exceptions to this rule if arrangements are made seven (7) days in advance of the day to be missed or a doctor's note is presented explaining an illness or disability.

Holiday pay will be eight (8) hours or the normal working hours at the employee's regular hourly rate. An hourly employee working other than a standard work week is entitled to the same number of paid holidays as a regular employee working the equivalent standard work week. Because of the nature of Tribal business, employees may on occasion be required to work on a holiday. When this occurs, with the exception of salaried employees, pay will be at the regular hourly rate of pay for the actual hours worked that day, in addition to the holiday pay to which the employee is entitled. When an exempt salaried employee works on a holiday, he/she may be authorized time off with pay, at a later date of convenience within the following pay period, equal to the amount of time worked on the holiday.

The Tribe will reasonably accommodate employees who need time off for religious observances. Employees who need time off to observe religious practices should first speak with their Supervisor. Depending upon business needs, you may be able to work on a day that is normally observed as a holiday and then take time off for another religious day. You may also be able to switch your schedule with another employee, use the floating holiday, take vacation time, or take off unpaid days.

holiday and then take time off for another religious day. You may also be able to switch your schedule with another employee, use the floating holiday, take vacation time, or take off unpaid days.

10-8. SICK LEAVE

- A. Purpose. Sick leave is for use when an employee is physically incapacitated to do their job and for other related reasons. Related reasons include: Exposure to a contagious disease or illness; Dental, optical, or medical examination or treatment; Injury; Participation in healing or wellness practices.

The Supervisor has the authority and responsibility to determine that the nature of the employee's illness or injury was such as to incapacitate him/her from their job and that the other reasons for which sick leave is granted are true.

The employee who becomes ill or injured is responsible for notifying his/her Supervisor as soon as possible. Leave for prearranged medical, dental, or optical examination or treatment should always be applied for in advance. Sick leave may be taken by an eligible employee unable to work due to medical reasons. Sick leave may also be taken to participate in traditional Native healing ceremonies or alternative healing practices, as appropriate and approved by a Supervisor.

- B. Eligibility. Sick leave is available to regular employees, including full-time and part-time employees. Sick leave may be used after the first thirty (30) days from date of employment. Temporary or intermittent employees are not eligible for sick leave.
- C. Accumulation. Sick leave will be accumulated at the rate of one day per month beginning the first day of employment. Unused sick leave may be carried over to the next year without limitation.
- D. Payment. At no time shall payment be made in lieu of time off for sick leave or for accumulated sick leave upon separation. Sick leave time off is not included as hours worked for the purpose of calculating overtime for non-exempt employees.
- E. Certification of Illness/Injury. A request for authorization of sick leave pay must be completed on the day of return to work. For sick leave in excess of three (3) days, or if abuse of sick leave is indicated, a Supervisor will require a physician's statement confirming the illness or injury, and that the employee is released to return to work.

10-9. FAMILY SICK LEAVE

In the event of a family illness or preventative care in an employee's immediate family requiring his/her attendance, the employee is entitled to use Family Sick Leave not to exceed twenty-four (24) hours in a calendar year. Any Family Sick Leave not used during the calendar year will not be carried over to the following year. The Family Sick Leave of twenty-four (24) hours is in addition to employee sick leave and charged separately.

SECTION 10. ATTENDANCE AND LEAVE COVID-19



10-8a. SICK LEAVE – COVID-19 ADDENDUM

- A. **Risk Prevention.** Employee risk of exposure to respiratory viruses like coronavirus may increase in crowded settings, particularly closed-in settings with little air circulation. This may include settings such as conferences, public events (like concerts and sporting events), religious gatherings, public spaces (like movie theatres and shopping malls), and public transportation (like buses, metro, trains).
1. If an employee has close contact with someone with COVID-19 during travel, the Tribe may ask the employee to stay home to self-monitor and avoid contact with others for 2 up to 14 days after travel. If an employee becomes ill or exhibits symptoms of COVID-19, the employee understands they may be unable to go to work or school until they have been determined noninfectious. Employees will be asked to avoid contact with others (including being in public places) during this period of infectiousness.
- B. **Attendance and Punctuality Requirements.** It is the policy of the Tribe to require employees to report for work punctually and to work all scheduled hours and any required overtime. This policy has been modified to meet the needs of the tribe while ensuring the maximum protection of health and safety of our Employees. The following is an adjusted policy should the tribe be directly impacted by the COVID-19:
1. Supervisors will notify employees of any adjusted schedules to ensure minimal exposure to employees however ensuring essential functions of the business/organization continue. Supervisors will record all absences, tardiness or early departures.
 2. Employees must notify their Supervisor, of possible exposure or if symptoms appear that would constitute a precautionary measure for employee to stay home to ensure illness is contained.
 3. Employees are required to notify their supervisor of their status by directly contacting the supervisor by cell phone or contact number.
 4. Leave Usage: Employees are to be compensated during authorized absences in accordance with leave provisions.
 5. Determination of alternative compensation: Tribes who have determined Administrative pay may require employees to complete duties at home (See Section 16. Telecommuting Policy).
 6. Supervisors will maintain contact with employees as to the current situation with the Tribe.
- C. **Well/Non-Sick Employees:** Employees who are well/non-sick are expected to report to work as scheduled, even if they have been in contact with or caring for someone who is ill with a common respiratory illness (in such cases, the Tribal HR Department recommends the employee take typical preventative measures as caregivers).

Well/Non-Sick employees are expected to report to work as scheduled, unless they have been:

1. In contact or have been caring for someone with a confirmed case of COVID-19, in which case they are required to self-isolate.
2. In a CDC Level 3 area of concern; or
3. Instructed to refrain from attending work by public health officials.

D. Sick Employees: Employees who have symptoms of respiratory illness must stay home and not come to work until they are free of fever, and any other symptoms for at least 24 hours, without the use of fever-reducing or other symptom-altering medicines (e.g., cough suppressants). A fever is defined as a temperature of 100.4 degrees Fahrenheit or 38 degrees Celsius taken by an oral thermometer.

Employees should contact the health clinic if they develop possible symptoms. If any employee presents themselves at work with symptoms of respiratory illness or a fever, the Tribe by and through Human Resources, at their discretion, may request that the employee leave work and seek medical attention. Employees may be required to provide a physician's note indicating that they have been released to return to full duty and no longer contagious.

Notice: Employees shall, as soon as practicable, give notice to their supervisor that they are sick and unable to report to work, consistent with Section 10, of the Tribe's attendance and leave policies.

10-19. FAMILY AND MEDICAL LEAVE – COVID-19

An employee is eligible for Coronavirus-FMLA leave if the employee has been employed for at least 30 calendar days by Tribe from which the employee is requesting leave.

- A. Eligibility. Eligible employees may take up to 12 weeks of coronavirus-FMLA leave for these reasons:
1. Employee:
 - a. the employee's physical presence at the job would jeopardize the health of others because the employee has been exposed to or has symptoms of coronavirus;
 - b. the employee is unable to perform the function of the employee's position and to comply with recommendations by the CDC
 2. Family Member:
 - a. to care for a family member who cannot be in public because a public official or health care provider has determined that the family member's presence in public would jeopardize the health of others because the family member has been exposed to or has symptoms of coronavirus;
 - b. to care for a son or daughter under 18 years of age if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to the current public health emergency.

- B. Provisions of Leave.
 - 1. Leave cannot be used intermittently;
 - 2. If employee foresees the need for leave, the employee shall provide the employer with such notice as practicable;
 - 3. Leave may run concurrent to traditional FMLA leave and is not in addition to the 12 weeks provided under Traditional FMLA.

10-20. EMERGENCY PAID SICK LEAVE

Emergency Paid Sick Leave provides paid sick time in addition to current sick leave balances earned by all regular part-time and full-time employees. This shall be in effect during the period of Covid-19 Pandemic period.

- A. Eligibility for Emergency Paid Sick Leave.

Employee. An eligible employees shall:

- 1. Obtain a certificate of testing, medical diagnosis/care if the employee is experiencing the symptoms of coronavirus;
 - a. Comply with a recommendation or order by a public official having jurisdiction or a health care provider on the basis that the employee's physical presence at the job would jeopardize the health of others because the employee has been exposed to or has symptoms of coronavirus;

Care or assistance for a family member of the employee. An eligible employees shall:

- 1. Obtain a certificate of testing, medical diagnosis/care if the employee's family member is experiencing the symptoms of coronavirus for a family member:
 - a. who is self-isolating because such family member has been diagnosed with coronavirus or is experiencing symptoms of coronavirus and needs to obtain medical diagnosis, or
 - b. because a public official or health care provider has determined that the family member's presence in public would jeopardize the health of others because of the family member's exposure to coronavirus or having symptoms of coronavirus

To care for a child of such employee if the school or place of care has been closed, or the child care provider of such child is unavailable, due to the coronavirus.

- B. Paid Sick Time

- 1. The Tribe provides paid sick time for all benefit-eligible employees. Employees may use paid sick time for self-isolation or quarantine, even if they are not sick, *when it is required or recommended by public health authorities/guidelines or by health care providers.*
- 2. Paid Family and Dependent Care Time: Employees with dependent children, partners, household members, or elders who are ill are urged to use paid family leave, paid sick; and Emergency Sick leave if needed to

provide care. Employees may also use family sick, paid sick; and Emergency Sick leave if needed to provide care in order to care for immediate family and household members, who are not ill, but need care due to any COVID-19 related closures.

- C. Calculation of Leave.
 - 1. Full-time employees are entitled to 80 hours;
 - 2. Part-time employees are entitled to the average number of hours worked over a 2-week period;
 - 3. Employees compensation for leave will be at their regular rate of pay.

- D. Return to Work:
 - 1. If an employee has been confirmed to have COVID-19, the Tribe will require written medical clearance for the employee to return to work and that the employee is no longer contagious. This must be submitted to the Supervisor who will forward to HR for clearance to return.

- E. Multiple Exposure
 - 1. Employee Testing Positive
 - a. Initial leave would be credited to emergency sick leave up to 80 hours;
 - b. Further positives will be credited to employee's accrued sick and if needed annual leave balance; if employee out of leave, the employee will utilize LWOP (leave without pay.)
 - 2. Employee Family Testing Positive
 - a. Employee will utilize their accrued sick, annual and if needed LWOP.
 - 3. Employee Exposure
 - a. Initial would credit employees sick and annual leave and if needed, LWOP up to 30 days.
 - 4. Employee Family Exposure
 - a. Initial would credit employees sick and annual leave and if needed, LWOP up to 30 days.

- F. Other Consideration:
 - 1. Employees who have repeated exposures that inhibit or endanger services and/or their client will be addressed based upon Section 8, Employee Conduct and Discipline.
 - a. ESL will not carry over from year to year and is not paid out upon separation of an employee from employment for any reason.

10-10. PREGNANCY LEAVE

Childbirth and the complications of pregnancy will be considered as a temporary medical disability and shall be treated as any other such disability or illness.

A pregnant employee may continue working until such time as she can no longer satisfactorily perform her duties or her physical condition is such that her continued employment would be injurious to her. The point at which pregnancy leave shall commence and the employee will return to the workplace is a matter for the employee and her physician to determine. An employee will be required to present a medical certification of fitness to continue or resume work.

Total pregnancy leave will not exceed four (4) months from the last day worked, including sick leave, annual leave, and leave without pay. Requests for leave extending beyond this period will be resolved on an individual basis and accompanied by the appropriate medical certification. The employee is responsible for maintenance of all insurance premiums, unless otherwise qualified for continued benefits through the Family and Medical Leave Act or COBRA.

A regular employee will be granted pregnancy leave with or without pay whenever such leave will not seriously affect the ability of the Tribe to provide vital services. At the expiration of such leave the employee will return, when feasible, to the former position held prior to the leave or a similar position. The Tribe will fill vacancies created by such leave with temporary appointments if needed.

10-11. INJURY LEAVE - WORKER'S COMPENSATION

An important means of controlling workers' compensation costs is early intervention. Accordingly, it is important to require employees to report any and all injuries, no matter how seemingly insignificant or minor, immediately after their occurrence. Some injuries, when treated in their early stage, require very minor conservative treatment, but if not addressed in a timely fashion, require much more aggressive treatment, including surgical intervention.

The Tribe supports the practice of returning injured employees to work, as soon as medically possible, to a Tribal position compatible with the employee's restrictions. The prompt return of an injured employee to a position within his/her medical restrictions will: regain the employee's sense of job security; retain the employee's self-esteem; and help to re-establish the employee's pre-injury lifestyle while also helping to control our overall Workers' Compensation costs.

The injured employee's current position can be modified to fit medical restrictions. If this is not possible, a temporary light-duty position will be made available. Examples of light-duty positions are: part-time employment (2, 4, 6 hours per day); the creation of a temporary job to meet the employee's work schedule; job modification or redesign to meet the employee's work restrictions; a different job with the Tribe, even at a lower wage. The Tribe requires a written medical certification regarding physical fitness of employee to return to full-time employment.

- A. Employee Responsibilities:
1. Prompt reporting of all injuries and accidents to immediate Supervisor.
 2. Cooperation in investigation of injury.
 3. Post-accident drug screens (when applicable).
 4. Submitting for medical treatment.

5. Providing all work status slips to employer.

B. Supervisor/Department Head Responsibilities:

1. When employee reports an injury, he/she should be sent to appropriate first responder for medical attention.
2. Initial accident or incident investigation report and appropriate statements.
3. Provide all pertinent information to the Human Resources Department.
4. Develop a modified duty accommodation.
5. Help to prevent a reoccurrence of injury or occupational illness.

C. Human Resources Responsibilities:

1. Initiate a claim with the Workers Compensation insurance company.
2. Provide the insurance company with all available or requested information.
3. Encourage and manage modified duty accommodation and return to work program.

In the event of an accident resulting in injury or illness and an employee is sent home for the remainder of the day, the employee will be paid for any hours lost that day. If the injury, as verified by the attending physician, requires the employee to remain off work, the employee's leave accounts will be drawn upon in the following order: Sick leave, Annual/vacation leave, until such time that the employee is eligible to receive Worker's Compensation payments.

10-12. UNIFORMED SERVICE LEAVE

The Tribe grants leave for uniformed or other emergency service in accordance with applicable law. Service in the uniformed services means performance of duty on a voluntary or involuntary basis which includes active duty, training, National Guard duty, and a period for which a person is absent for a fitness examination or to perform funeral honors. Any employee who needs time off for uniformed service must immediately notify his or her Supervisor, who will provide details regarding the leave. If an employee is unable to provide notice prior to leaving for uniformed service, then the employee may use voice mail, e-mail, or have a family member promptly notify the Supervisor.

A full-time, regular employee who has completed the probationary period will be compensated for the difference between his or her base payroll and the uniformed service pay for a maximum of 10 working days per year for short term uniformed service leave. Employees are permitted to use any accrued leave, such as annual/vacation leave or other leave with pay toward uniformed service time. However, the Tribe doesn't require employees to use accrued leave toward uniformed service leave.

The Uniformed Services Employment and Reemployment Rights Act (USERRA) was enacted to ensure that members of the uniformed services are entitled to return to their civilian employment upon completion of their service. They should be reinstated with the seniority, status, and rate of pay they would have obtained had they remained continuously employed by their civilian employer. The law also protects individuals from discrimination in hiring, promotion, and retention on the basis of present and future membership in the armed services.

Employees returning from military service must be reemployed in the job that they would have attained had they not been absent for military service and with the same seniority, status, and pay, as well as other rights and benefits determined by seniority. Reasonable efforts must be made to enable returning employees to refresh or upgrade their skills to enable them to qualify for reemployment. Upon completion of military service, employees have several specific entitlements, such as prompt reemployment; seniority, seniority-related benefits (including pension), status, and rate of pay as if the employee were continuously employed during the military absence; immediate reinstatement of health insurance for the employee and previously covered dependents, with no waiting period and no exclusion of preexisting conditions, except conditions determined by the Government to be service-connected; training or retraining by the employer if that is necessary to qualify the employee for reemployment.

10-13. JURY/WITNESS LEAVE

Employees called for jury duty must notify their Supervisor immediately to ensure the department's work continues with as little disruption as possible. Employees who are released from jury duty before the end of their regularly scheduled work hours or who are not asked to serve on a jury panel are expected to contact their Supervisor as soon as possible and report to work if so requested. Leave for jury duty shall be granted with pay. Employees will retain jury fees.

Employees who are subpoenaed to appear in court must notify their supervisor immediately, and are expected to return to work as soon as the employee's service as a witness is completed.

10-14. ADMINISTRATIVE LEAVE

Administrative leave is an absence from duty administratively authorized without loss of pay and without charge to leave. Administrative leave with pay may be granted to attend job related conferences, seminars, training, or college courses with approval of the Supervisor. The Tribal Chairman or designated representative may also grant administrative leave for purposes such as inclement weather, holiday extensions or if a dangerous or serious health risk is present in the work environment.

In addition, Tribal employees who serve on vital voluntary services such as First Responders, EMT's, or Volunteer Fire Departments may be granted administrative leave in order to serve and protect the communities' interest for emergency civic duty. Volunteers must be bona-fide members and a copy of their registered status or certificate shall be placed in their personnel file. Administrative leave for volunteers shall be subject to emergency response only and will not be granted for abuse of this status, and is subject to the approval by the immediate Supervisor.

10-15. LEAVE WITHOUT PAY

Leave without pay is a temporary non-pay status and absence from duty granted upon the employee's request. The permissive nature of leave without pay distinguishes it from absence without leave. The authorization of leave without pay is a matter of administrative discretion. Leave without pay shall be granted only when it will be of mutual benefit and interest to the Department and to the employee. Leave without pay shall be granted only when there is a reasonable expectation that the employee will return to his/her position upon expiration of leave. Leave without pay will not be granted for the purpose of private employment.

10-16. BEREAVEMENT LEAVE

An employee may be paid for up to **three (3) days** of bereavement leave to attend the funeral of a member of the immediate family. Such leave will be with pay and not charged to annual or sick leaves. Such leave must be approved by the Supervisor prior to its use. Immediate family includes: spouse, parents, children, grandparents, grandchildren, brother, sister, aunt, uncle, niece, or nephew.

10-17. VOTING LEAVE

The Tribe believes that it is an important obligation to vote in city, county, state or national elections. If voting cannot be accomplished before or after normal working hours, the Tribe will grant up to two (2) hours of paid leave for employees to vote. A registered voter must submit a leave request prior to the scheduled Election Day.

10-18. FAMILY AND MEDICAL LEAVE

This section establishes the rights and obligations with respect to leave necessary for the medical care of employees and their families.

- A. **Eligibility.** Employees must have been employed for at least twelve (12) months and have worked at least 1,250 hours in the year preceding the date the employee seeks to start the leave.

- B. **Available Leave.** Eligible employees are entitled to take up to twelve (12) weeks leave measured forward beginning on the date qualifying leave is first taken; for the following purposes:
 - 1. **Child Care.** Leave may be taken because of the birth, adoption, or foster-care placement of a child in order to care for the child.
 - a. Child care leave must be concluded within twelve (12) months from the date of birth, adoption or foster-care placement.
 - b. Child care may be taken intermittently.
 - c. Parents who are both employees of the Tribe and who are eligible to take leave are entitled to take a combined twelve (12) weeks of leave for child care purposes under this section.
 - d. Employees who anticipate taking leave under this section are required to provide notice of their intent at least thirty (30) days prior to the date leave is anticipated to begin, or such notice as is practicable if leave becomes necessary before such thirty (30)-day notice may be given.

 - 2. **Family Care.** Leave may be taken to care for a son, daughter, spouse, or parent who has a serious health condition which:

- a. Requires inpatient treatment, or
 - b. Causes an absence from work, school, or normal activities for more than three (3) days and requires treatment by or under the direction or supervision of a health care provider on two or more occasions.
 - c. Employees requesting leave under this section must present a certification from a health care provider containing the date on which the serious health condition commenced, the probable duration of the condition, the appropriate medical facts regarding the condition, a statement that the employee is needed to care for the family member, and an estimate of the amount of time such care will be required.
 - d. Employees taking leave under this section may take the leave intermittently if desired upon production of a health care provider's certification that the intermittent leave is necessary. Employees using leave on an intermittent basis must try to schedule the leave to minimize disruption to normal operations. An employee may be reassigned to an alternative position, with equivalent pay and benefits that better accommodates the recurring periods of leave.
 - e. Employees who anticipate taking leave under this section are required to provide notice of their intent at least thirty (30) days prior to the date leave is anticipated to begin, or such notice as is practicable if leave becomes necessary before such thirty (30)-day notice may be given.
3. Self-Care. Leave may be taken when the employee is unable to perform the essential functions of the position that the employee holds.
- a. Employees seeking leave for self-care must have a serious health condition, as defined above.
 - b. Employees requesting leave under this section must provide a certification from a health care provider containing the date the serious health condition commenced, the probable duration of the condition, the appropriate medical facts regarding the condition, and a statement that the employee is unable to perform the essential functions of the position. Employees seeking the certification must provide the health care provider with the written job description and/or list of essential functions of the position.
 - c. Employees taking leave under this section may take the leave intermittently if desired upon production of a health care provider's certification that the intermittent leave is medically necessary and the expected duration of the leave. Employees who elect to use the

available leave on an intermittent basis must try to schedule the leave to minimize disruption to normal operations. An employee may be reassigned to an alternative position with equivalent pay and benefits that better accommodates the recurring periods of leave.

- d. Employees who anticipate taking leave under this section are required to provide notice of their intent at least thirty (30) days prior to the date leave is anticipated to begin, or such notice as is practicable if leave becomes necessary before such thirty (30)-day notice may be given.
4. **Active Military Duty.** Leave may be taken for an employee whose spouse, son, daughter or parent either has been notified of an impending call or order to active military duty or who is already on active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service.
 - a. Reasons related to the call-up or service include: helping the family member prepare for the departure or caring for children of the service member. The leave may commence as soon as the individual receives the call-up notice.
 - b. Son or daughter for this type of leave is defined the same as for child for other types of FMLA leave, except that the person does not have to be a minor. This type of leave would be counted toward the employee's 12-week maximum of FMLA leave in a 12-month period.
 - c. Employees requesting this type of FMLA leave must provide proof of the qualifying family member's call-up or active military service before leave is granted.
 - d. In any case in which the necessity for leave is foreseeable, whether because the spouse, or a son, daughter, or parent, of the employee is on active duty, or because of notification of an impending call or order to active duty in support of contingency operation, the employee shall provide such notice as is reasonable and practicable.
 5. **Injured or Ill Service Member Care.** This leave may extend up to 26 weeks in a 12-month period for an employee whose spouse, son, daughter, parent or next-of-kin is injured or recovering from an injury suffered while on active military duty and who is unable to perform the duties of the service member's office, grade, rank or rating.
 - a. Next-of-kin is defined as the closest blood relative of the injured or recovering service member. An employee is eligible for this type of

leave when the family service member is receiving medical treatment, recuperation or therapy, even if the service member is on temporary disability retired list.

- b. Employees requesting this type of FMLA leave must provide certification of the family member or next-of-kin's injury, recovery or need for care. This certification is not tied to a serious health condition as for other types of FMLA leave. This is the only type of FMLA leave that may extend an employee's leave entitlement beyond 12 weeks to 26 weeks. Other types of FMLA leave are included with this type of leave totaling the 26 weeks.
 - c. An eligible employee can take up to 12 weeks (or up to 26 weeks of leave to care for an injured or ill service member) under this policy during any 12-month period. The Tribe will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy.
 - d. Each time an employee takes leave, the Tribe will compute the amount of leave the employee has taken under this policy in the last 12 months and subtract it from the 12 weeks (or 26 weeks for the care of an injured or ill service member) of available leave, with the balance remaining being the amount the employee is entitled to take.
 - e. If a husband and wife both work for the Tribe and each wishes to take leave to care for a covered injured or ill service member, the husband and wife may only take a combined total of 26 weeks of leave.
- C. Use of Accrued Paid Leave. Eligible employees may use accrued paid leave before unpaid leave is taken.
- D. Benefits While on Leave. During any period of leave under this policy, an employee's group health insurance coverage will be maintained at the same level and under the same conditions as before the leave began.
- 1. Employees who normally make a contribution toward their health insurance coverage must continue to do so. If on paid leave, the employee's contribution will be collected in the same manner as if the employee were reporting to work. During periods of unpaid leave, the employee must arrange with the Finance Department, prior to commencement of the leave, for payment of the employee's share of the premium.
 - 2. An employee who does not return to duty from unpaid leave under this policy for at least thirty (30) calendar days will be liable for the group health insurance premium contribution and any part of the employee's share paid by the Tribe.

3. Employees will not accrue other benefits while in an unpaid leave status.
- E. Return to Duty. Upon return to duty, an employee is entitled to restoration to the former position or an equivalent position with equivalent pay and benefits.
1. An employee who has taken leave for self-care will be required to present a certification of fitness for duty from a health care provider prior to commencement of work. Failure to provide the certification may cause denial of reinstatement.



10-19. FAMILY AND MEDICAL LEAVE – COVID-19

An employee is eligible for Coronavirus-FMLA leave if the employee has been employed for at least 30 calendar days by Tribe from which the employee is requesting leave.

- A) Eligibility. Eligible employees may take up to 12 weeks of coronavirus-FMLA leave for these reasons:
- 1) Employee:
 - i) the employee’s physical presence at the job would jeopardize the health of others because the employee has been exposed to or has symptoms of coronavirus;
 - ii) the employee is unable to perform the function of the employee’s position and to comply with recommendations by the CDC
 - 2) Family Member:
 - i) to care for a family member who cannot be in public because a public official or health care provider has determined that the family member’s presence in public would jeopardize the health of others because the family member has been exposed to or has symptoms of coronavirus;
 - ii) to care for a son or daughter under 18 years of age if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to the current public health emergency.
- B) Provisions of Leave.
- 1) Leave cannot be used intermittently;
 - 2) If employee foresees the need for leave, the employee shall provide the employer with such notice as practicable;
 - 3) Leave may run concurrent to traditional FMLA leave and is not in addition to the 12 weeks provided under Traditional FMLA.



10-20. EMERGENCY PAID SICK LEAVE

Emergency Paid Sick Leave provides paid sick time in addition to current sick leave balances earned by all regular part-time and full-time employees. This shall be in effect during the period of Covid-19 Pandemic period.

A) Use of Emergency Paid Sick Leave. Eligible employees shall:

- 1) Self-Isolate if diagnosed with coronavirus;
- 2) Obtain a medical diagnosis or care if the employee is experiencing the symptoms of coronavirus;
- 3) Comply with a recommendation or order by a public official having jurisdiction or a health care provider on the basis that the employee's physical presence at the job would jeopardize the health of others because the employee has been exposed to or has symptoms of coronavirus;
- 4) Care or assistance for a family member of the employee
 - i) Who is self-isolating because such family member has been diagnosed with coronavirus or is experiencing symptoms of coronavirus and needs to obtain medical diagnosis, or
 - ii) Because a public official or health care provider has determined that the family member's presence in public would jeopardize the health of others because of the family member's exposure to coronavirus or having symptoms of coronavirus
- 5) To care for a child of such employee if the school or place of care has been closed, or the child care provider of such child is unavailable, due to the coronavirus.

B) Calculation of Leave.

- 1) Full-time employees are entitled to 80 hours;
- 2) Part-time employees are entitled to the average number of hours worked over a 2-week period;
- 3) Employees compensation for leave will be at their regular rate of pay.

C) Other Considerations:

- 1) Employees may, but are not required, to use ESL before using any other paid leave benefits provided by employer;
- 2) ESL will not carry over from year to year and is not paid out upon separation of an employee from employment for any reason.



SECTION 10. ATTENDANCE AND LEAVE PANDEMIC AMENDMENT

10-8b. COVID LEAVE

A. Risk Prevention. The virulent strain of COVID-19 continues to expose employees to risk of variant respiratory viruses like the Delta Strain of the coronavirus and has shown an increase in crowded settings, particularly closed-in settings with little air circulation. Activities identified may include settings such as conferences, public events (like concerts and sporting events), religious gatherings, public spaces (like movie theatres and shopping malls), and public transportation (like buses, airplanes, trains). It is determined the steps below will be taken to mitigate exposure and transference of the COVID-19 Virus and variants:

1. In accordance with updated OSHA recommendations, unvaccinated workers should:
 - a. Identify and consider opportunities to get vaccinated.
 - b. Properly wear a face mask that covers the nose and mouth.
 - c. Stay at least 6 feet away from other people.
 - d. Be aware of whether rooms are properly ventilated.
 - e. Practice good personal hygiene and wash hands often.
2. Employers can help reduce the spread of COVID-19, according to OSHA, by:
 - a. Offering paid time off for employees to get vaccinated.
 - b. Encouraging unvaccinated workers to stay home if they have been in close contact with someone who tested positive for COVID-19.
 - c. Encouraging all workers to stay home if they are infected or have COVID-19 symptoms.
 - d. Maintaining physical distancing policies for unvaccinated and at-risk employees and providing them with appropriate face coverings.
 - e. Educating and training workers on COVID-19 policies and procedures.
 - f. Requesting unvaccinated customers and visitors, wear face coverings.
 - g. Maintaining ventilation systems.
 - h. Performing routine cleaning.
 - i. Reporting COVID-19 infections and deaths.
 - j. Protecting employees from retaliation and setting up an anonymous process for them to report COVID-19-related hazards.
 - k. Following mandatory OSHA standards.
3. Additionally, the Tribe shall require workers to:
 - a. Use hand sanitizer, frequently.
 - b. Require workers, customers and visitors, wear face covering regardless of vaccination status.

B. Attendance and Punctuality Requirements. It is the policy of the Tribe to require employees to report for work punctually and to work all scheduled hours and any required overtime. In accordance with Resolution No.: PL 153-21, Tribal Government Employee COVID Leave Program, this policy has been modified to meet the needs of the Tribe while ensuring the maximum protection of health and safety of our Employees.

This COVID Leave policy is to be implemented for all Tribal employees, within its organization and Tribal Entities, in the case of exposure to COVID-19 and/or its variants:

1. Supervisors will notify employees of any adjusted schedules to ensure minimal exposure to employees, ensuring essential functions of the business/organization continue. Supervisors will record all absences, tardiness or early departures.
2. Employees must notify their Supervisor, of possible exposure or if symptoms appear that would constitute a precautionary measure for employee to stay home to ensure illness is contained.
3. Employees are required to notify their supervisor of their status by directly contacting the supervisor by cell phone or contact number.
4. Leave Usage: Employees are to be compensated during authorized absence in accordance with leave provisions for normal terms listed within Section 10 of the Tribe's Personnel Policies and Procedures.
5. Determination of alternative compensation: The Tribe has determined COVID LEAVE which if an employee is eligible will require employee to agree to a period of staying home while utilizing this status.
6. Supervisors will maintain contact with employees as to the current situation with the Tribe and/or employee.

C. Well/Non-Symptomatic Employees: Employees who are well/non-symptomatic are expected to report to work as scheduled.

1. Well/Non-symptomatic employees are expected to report to work as scheduled, unless they have been:
 - a. In contact or have been caring for someone with a confirmed case of COVID-19 or any of its variants, in which case they are required to self-isolate; or have been,
 - b. Instructed to refrain from attending work by public health officials.

D. Sick/Symptomatic Employees: Employees who have symptoms of respiratory illness must stay home and not come to work until they are free of fever, and any other symptoms for at least 24 hours, without the use of fever-reducing or other symptom-altering medicines (e.g., cough suppressants). A fever is defined as a temperature of 100.4 degrees Fahrenheit or 38 degrees Celsius taken by an oral thermometer.

Employees should contact the health clinic if they develop possible symptoms. If any employee presents themselves at work with symptoms of respiratory illness or a fever, the Tribe by and through Human Resources, at their discretion, may request that the employee leave work and seek medical attention. Employees may be required to provide a physician's note indicating that they have been released to return to full duty and no longer contagious.

Notice: Employees shall, as soon as practicable, give notice to their supervisor that they are sick and unable to report to work, consistent with Section 10, of the Tribe's attendance and leave policies.

10-20a. COVID LEAVE

Employees who are unable to work or telework due to a need identified in this section: (1) are subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or variant; (2) have been advised by a health care provider to self-quarantine due to concerns related to COVID-19 or variant; or (3) are experiencing symptoms of COVID-19 or variant and are seeking medical diagnosis, will receive for each applicable hour up to 80 hours their regular rate of pay.

This shall be in effect during the period of COVID-19 Pandemic period.

A. Eligibility for COVID-19 Leave.

1. Employee. Eligible employees shall:
 - a. Obtain a certificate of testing, medical diagnosis/care if the employee is experiencing the symptoms of coronavirus;
 - b. Comply with a recommendation or order by a public official having jurisdiction or a health care provider on the basis that the employee's physical presence at the job would jeopardize the health of others because the employee has been exposed to or has symptoms of coronavirus;
2. Restrictions of Designated Time.
 - a. Employee agrees during this time-period to stay at home or within the designated domicile and will not risk exposure to others.
3. Return to Work:
 - a. If an employee has been confirmed to have COVID-19, the Tribe will require written medical clearance for the employee to return to work and that the employee is no longer contagious. This must be submitted to the Supervisor who will forward to Human Resources for clearance to return.
4. Multiple Exposure
 - a. Employee Exposure
 1. Initial time will be compensated up to 80 hours;
 2. Further instances will be credited to employee's accrued sick and if needed annual leave balance; if employee out of leave, the employee will utilize LWOP (leave without pay) or may have leave donated to ensure their financial livelihood is not impacted.
 - b. Employee / Family Testing Positive
 1. Employee will utilize their accrued sick, annual and if needed LWOP and may utilize leave donation upon approval.
 - c. Employee Family Exposure
 1. Employee will utilize their accrued sick, annual and if needed LWOP and may utilize leave donation upon approval.
5. Other Consideration:
 1. Employees who have repeated exposures that inhibit or endanger services and/or their clients will be addressed based upon Section 8, Employee Conduct and Discipline.

SECTION 11. EMPLOYEE BENEFITS

11-1. MANDATORY INSURANCE AND BENEFITS

- A. Social Security Taxes. All employees are required to contribute social security taxes at the rate set by federal law.
- B. Medicare Taxes. All employees are required to contribute Medicare taxes at the rate set by federal law.
- C. Unemployment Insurance. The Tribe pays unemployment insurance as determined by the State of Nevada. This coverage is no cost to the employee. Former Tribal employees may file a claim for Unemployment Insurance Benefits, subject to Employment Security guidelines.
- D. Worker's Compensation. All employees are covered for disability insurance with accidents that occur on the job, subject to claim approval by the Tribe's insurance company.

11-2. OPTIONAL EMPLOYEE BENEFITS

Regular employees receive optional employee benefits in addition to paid leaves, holidays and mandatory benefits. Optional fringe benefits are dependent upon the availability of funds and may change from year to year. Fringe benefits may include, but are not limited to: group health insurance, life insurance, dental insurance, optical insurance and disability insurance. Information and summary communications intended to explain these benefit plans will be furnished to all plan participants and beneficiaries on a timely and continuing basis. The Tribe reserves the right to modify, amend, or terminate benefits as they apply to all current, former, and retired employees. The Administrator of each benefit plan has the discretionary authority to determine eligibility for benefits and to interpret the plan's terms.

- A. The Tribe offers benefits to eligible employees, including health, life, dental, optical and disability insurance. Eligibility will depend upon the specific requirements of each benefit plan.
- B. All benefits provided by the Tribe are described in official documents which are kept on file in the Human Resources Department. These documents are available for examination by any plan participant or beneficiary. In addition, these documents are the only official and binding materials concerning the Tribe's welfare benefits. All summaries and communications, both written and verbal, must refer to them as binding in cases of questions or disputes.
- C. The Human Resources Manager serves as Administrator of the Tribe's welfare plans. The Administrator is responsible for all communications and disclosures concerning Tribal benefits and for compliance with all applicable laws and regulations. In addition, the Administrator is available to answer questions concerning the benefit plans.

- D. Under certain provisions of the Tribe's life insurance plan, each employee must designate a beneficiary for the employee's death benefits. The designation must be made in writing and in a form acceptable to the Administrator. It is the employee's responsibility to maintain the proper beneficiary designations and to alert the Administrator to any changes in status affecting eligibility and/or designations.
- E. Participant contributions to benefit plans normally will be deducted from the employee's paycheck if the employee has authorized the deduction in writing. Contributions to benefit plans are not included in the employee's gross wages for income tax purposes.
- F. All employees who are eligible for coverage under the Tribe's health benefit plan may also have the option of membership in a qualified health maintenance organization ("HMO") engaged in providing basic health services.
- G. Employees, spouses, and dependents covered by the Tribe's health benefit plan will be notified, when appropriate, that they have the opportunity to continue their health care coverage, at their own expense, in certain specified situations including layoff, termination, reduction in hours of employment, and separation or divorce.

11-3. WORKER'S COMPENSATION

A work related injury/illness is one which arises out of employment and must occur while the employee is acting in the course of his or her employment. The Tribe provides insurance in the event of a work related injury/illness.

If an employee is injured on the job, he/she must notify their Supervisor as soon as practicable and complete a NOTICE OF INJURY AND OCCUPATIONAL DISEASE form. If notice of the injury is not given in a timely manner, an injured employee could be denied workers' compensation benefits. Supervisors who are notified that an employee has been injured on the job should assist the employee in completing the required form, and complete an ACCIDENT REPORT form. Supervisors must notify the Human Resources Department of the injury as soon as possible, and provide the completed documentation.

In case of an emergency, the injured employee should be transported to an appropriate and most readily available doctor/hospital.

An employee injured on the job will be paid through the end of the workday in which the injury took place. An injured employee may receive benefits through worker's compensation after a certain time period according to the employer's policy with the Tribe's insurance company.

In case of death, the insurance company must be sent the claim report within twenty-four (24) hours.

The employee should be advised that a medical doctor must be seen for the initial examination. The medical provider must request a pre-authorization from the insurance company for tests such as MRI, scans, etc. No benefits will be paid if the employee does not seek medical attention within ten (10) calendar days of the work-related injury.

If the employee is released from work by the medical provider, a written release notification must be received by the Tribe with a copy faxed to the insurance company. An employee cannot take him/herself off work.

An employee must not return to work without a written release from the medical provider which should advise if there are any work restrictions.

11-4. COBRA

When an employee or enrolled dependents are no longer eligible for regular coverage in the Tribe's health insurance plan, they may be eligible for continued coverage if they pay the monthly premium for the coverage. This is guaranteed to employees and dependents under the Consolidated Omnibus Budget Reconciliation Act (COBRA) if:

- They were covered under the group plan at the time of a qualifying event;
- They are not eligible for Medicare;
- They are not eligible for coverage under another employer's group plan;
- They have not applied to convert group coverage to an individual health insurance policy

Covered employees have the right to choose continuation coverage (COBRA) if they lose group health insurance because of a reduction of hours in employment or the termination of employment (voluntary or involuntary) for reasons other than gross misconduct.

A covered spouse or dependent child has the right to choose continuation coverage (COBRA) if coverage is lost for any of the following reasons:

- Employee's death;
- Termination (voluntary or involuntary) of the employee's employment or reduction in hours of employment;
- Divorce or legal separation;
- He or she becomes eligible for Medicare; or,
- A dependent child is no longer considered a "dependent child" under the terms of the Tribe's insurance policy.

A. Employee Responsibilities Under COBRA

Under the law, employees and their dependents have the responsibility of informing the Tribe within sixty (60) days of a divorce, legal separation, or the Social Security determination that a qualified beneficiary was disabled at the time of the employee's termination or reduction in hours, or when an employee's child loses eligibility for dependent status.

B. Election Period

Once the Tribe has been notified of a qualifying event, the employee will be provided information about COBRA rights, premium payments, and a COBRA election for the employee and/or covered dependents. Under the law, employees and dependents have sixty (60) days after the date of the COBRA election notice to elect COBRA coverage. If an employee and/or dependents do not choose COBRA, their group health insurance coverage will terminate.

C. Continuation of Benefits

If an employee and/or dependents elect COBRA, they will receive identical coverage provided under the plan to similarly situated employees or family members. An employee's/dependent's right to continue coverage under COBRA will continue for at least eighteen (18) months, and in some situations up to thirty-six (36) months.

Employees/dependents will be advised as to the maximum length they may continue COBRA coverage at the time of the COBRA election.

D. Expiration of COBRA Rights or Coverage

Once an employee's/dependent's COBRA rights have expired, they are entitled to convert coverage to an individual plan as provided under the insurance policy in effect at the time.

E. Payment of Premiums

COBRA premiums are due on the first of each calendar month. Payment by check or money order must be sent to the Tribe. The law provides a thirty (30) day grace period for premiums; however, repeated late payment of premiums or payment by check without sufficient funds can result in loss of COBRA coverage.

F. Under COBRA, continuation of coverage may be cut short for any of the following reasons:

- The Tribe no longer provides group health coverage to employees; or,
- Employees do not pay their monthly premium on time; or,
- The employee or dependent(s) become covered under another group health plan that does not include a pre-existing conditions clause that applies to them or to a covered dependent; or
- The employee or dependent(s) become covered under Medicare.



SECTION 12. TRAINING AND TRAVEL GUIDELINES

12-1. TRAINING

Supervisors and/or Department Heads shall be responsible for the training and career development of their employees. The Supervisor may authorize participation in job-related training during work hours. The employee is responsible for submitting a written request and securing necessary approval of the Supervisor and/or Department Head.

If approved, the employee can attend training classes, conferences or seminars, and the Tribe will pay for appropriate costs as allowed in the program budget. Training will be provided for employees of regular status who have passed a probationary period. Due to financial constraints, temporary, intermittent, or probationary employees are not recommended to attend training, workshops, or conferences at the Tribe's expense.

If the employee requests to take training classes, or attend conferences or seminars, the employer may:

- A. Approve request and pay for class in full, and allow administrative leave if the class is job-related.
- B. Approve request and allow employee to take administrative leave, but not pay for training.
- C. Approve request and pay for training, but require employee to use annual leave.

After the employee has attended training, a certificate of completion or report of grade must be provided to the Supervisor and a copy forwarded to the Human Resources Department for placement in the employee's personnel file.

If the training is a college course, the employee must receive a grade of "C" or better. If the employee receives less than a "C", the employee must reimburse the Tribe the amount of costs incurred by the Tribe.

12-2. PURPOSE

The Tribe recognizes that certain amounts of travel are necessary for satisfactory performance and completion of program objectives. Control of travel ensures the effective and efficient use of the Tribal funds and our employee's work hours. The purpose of this travel policy is to establish uniform travel guidelines and procedures for all Tribal officials, and employees. This travel policy shall apply to all official travel regardless of source of funds used to pay or reimburse the travel costs. All individuals seeking reimbursement for authorized travel must qualify as follows:

- A. Be a Tribal employee within the scope of his/her assigned duties.
- B. Be a member of the Tribal Council acting on behalf of the Tribe.
- C. Any person approved by the Tribal Council to conduct business on behalf of the Tribe.

12-3. AUTHORIZATION

The Pyramid Lake Paiute Tribal Council shall approve travel when approving a program's annual budget. The Tribal Council will approve the Tribal Chairman and Vice-Chairman's travel. The Tribal Chairman or the designated representative can approve other department travel that is essential to conduct Tribal business.

All travel authorized must be within the program guidelines as specified by Program's annual budget. All travel must have prior authorization as follows:

- A. Local Travel within the reservation, Fernley, and/or surrounding areas not requiring per diem or lodging as authorized by the Department Head and/or Supervisor.
- B. Off-Reservation travel within the State or areas requiring per diem or overnight travel as authorized by the Tribal Chairman and/or Department Head. Traveler must complete a travel request form prior to travel.
- C. Out-of State travel must be pre-authorized by the responsible Department Head and/or the Tribal Chairman and included in the Program's annual budget.
- D. No individual may approve his/her own travel authorization or travel expense statement forms.

12-4. TRANSPORTATION COSTS

Travelers must use the most economical and expeditious means available and every effort should be made to obtain the lowest rates possible.

The Tribe requires all travelers to submit a Travel Expense Statement within five (5) working days after returning from a trip. Failure to submit the proper documentation will result in the deduction of advanced travel funds from the individual's payroll or stipend check.

The Tribe will not provide any additional funds to those individuals who fail to submit the required documentation or fail to provide reimbursement to the Tribe for travel funds received.

- A. Mileage
 - 1. Supervisors or Department Heads must determine that use of a personal vehicle is in the best interest of the Tribe before the Tribe reimburses an individual for mileage. Payment is based on the traveler submitting an approved Travel Expense Statement. All Travel Expense Statements must include a short written justification. For long trips, mileage reimbursement will not exceed the normal airfare.
 - 2. All mileage claims must be recorded by odometer readings, the purpose of travel, the points of travel, dates and times of departure and return.

3. Mileage will be paid for travel from residence to place of destination on occasions when the traveler must leave directly from their place of residence to the place of destination, but not to their normal work site.
4. Parking fees are recognized as reimbursable expenses. Travelers assume all financial responsibility for traffic violations during any travel.
5. The mileage rate is included in the current published Federal Travel Regulations and is updated at least annually.
6. If two (2) or more persons travel in the same automobile and to the same destination, only one (1) of those persons shall be reimbursed for mileage. In special instances, more than one person may receive mileage reimbursement if travelers live in different areas or must conduct other Tribal business before or after reaching their destination.
7. Individual drivers are expected to maintain adequate vehicle insurance coverage to protect them from liability resulting from an accident that may occur when using a privately owned vehicle to conduct official business.
8. Reimbursement will not be paid for gas purchases and mileage traveled for the same trip. The Tribe will only provide mileage reimbursement and will not pay for gasoline expenses when a personal vehicle is used.
9. Travelers must submit an approved Travel Expense Statement before mileage reimbursement is processed. The Tribal Finance Office must receive a Travel Expense Statement within five (5) working days after travel completion.

B. Public Transportation

1. **Airfare vs. Mileage:** If a private vehicle is utilized, the amount of travel reimbursement will not exceed the cost of the lowest available airfare. Travel on official business shall be reimbursed for the cost of coach or tourist class airline accommodations.
2. **Taxi/Shuttle Bus, etc:** Available airport limousines or shuttles should be used unless schedules require faster modes of travel. Reimbursement will be given for cost of travel based on submitted receipts.
3. **Rental Car:** A rental car will be approved only if it is the most economical or only feasible means of transportation available. Unless there are extenuating circumstances, employees should request economy or compact cars. Other models are authorized if several persons are in the party or if an economy car does not meet some other business need.

C. Travel Expenses

1. Per diem is an allowance paid to a traveler for meals, lodging, and incidental expenses to areas more than 80 miles from the worksite.
2. Requests for travel expenses/per diem must be submitted to the Finance Department at least ten (10) days prior to the scheduled trip.
3. Checks for payment of travel expenses/per diem are not authorized to be released more than one (1) working day prior to the scheduled trip, unless extenuating circumstances exist that warrant release of the payment sooner, however, no more than five (5) working days prior to the scheduled trip.
4. General Service Administration (GSA) Federal Travel Regulations will apply. All travel expenses/per diem will be calculated utilizing the Federal Travel Regulations according to the appropriate geographic area.

D. Travel Expenses/Per Diem: Travel expenses/per diem will be made according to the GSA Federal Travel Regulations for maximum per diem rates allowable. The traveler will receive a meal rate for the first and last day of travel limited to three (3) quarters for each day. The traveler will receive a lodging rate based on the number of overnight stays.

1. Lodging: Payment for lodging will be paid according to the GSA Federal Travel Regulations for maximum lodging rates allowable. In the event it is to the benefit of a traveler to obtain lodging at a hotel/motel where the meeting, conference, workshop, etc. is being held, a higher lodging rate may be allowed as an exception to the GSA lodging per diem allowed. Telephone costs to conduct Tribal business may be reimbursed if the Department Head approves and the traveler submits a written request with the Travel Expense Statement. To confirm a traveler arrived safely, one telephone call not to exceed \$3.50 may be charged and reimbursed when calling home during the first night of travel.
2. For local travel within an 80 mile radius of the work site, the Department Head may approve lunch subsistence provided the meal allowance stays within current meal per diem rate. The travel must be for an all day conference/training or meeting related to the job. Meal receipts must be attached with the Travel Expense Statement.

E. Travel Advances. When a travel expense is received and where a trip is of less duration than originally estimated, the traveler shall refund the excess amount to the Tribe. Any amount not refunded within fifteen (15) working days will result in the traveler not receiving any future advance until the amount due is paid.

Failure to reimburse within the fifteen (15) day limitation will authorize an automatic payroll deduction or deduction from other funds due to the traveler from the Tribe.

- F. Reimbursements. Reimbursements requested for travel expenses which exceed the amount of funds advanced requires the submission of sufficient documentation and receipts before the traveler receives reimbursement.

12-5. REIMBURSEMENTS

- A. Statement of Travel Expense: Upon completion of any authorized travel, the traveler shall file with the Finance Department an approved Travel Expense Statement form within five (5) days after travel. This statement shall include the lodging and airfare receipts to support the payment of travel expenses with the Supervisor's approval. The Finance staff will review and reconcile the Travel Expense Statement.

If the traveler requests reimbursement for the lunch meal while attending an all day session within the 80-mile radius, the traveler must include an itemized receipt. This statement shall be required for all travel expenses incurred. Failure to file such a statement shall result in a suspension of travel advances and no additional advances can be given until the statement and any required documentation has been submitted. Any trips taken during the period of suspension will not be reimbursed.

The date and time for departure and arrival must be included. The traveler must submit documentation to verify that the trip was taken. The required documentation to be submitted includes the following: statement of travel expense, lodging receipts, airline receipts, and incidental expenses such as taxi, shuttle, parking, etc.

- B. Reimbursable Expenses: Approved expenses and costs which are essential and specifically required in carrying out the business of the Pyramid Lake Paiute Tribe.

Non-reimbursable expenses: Expenses and costs incurred, which are not necessary in carrying out business essential to the Pyramid Lake Paiute Tribe, are not reimbursable. The following items are examples of non-reimbursable expenses:

1. Expenses of family members.
2. Items purchased for personal use such as clothing, recreation, pleasure, or entertainment.
3. Tips in excess of 15% for any one meal.
4. The purchase of alcoholic beverages or other drugs.

12-6. USE OF CREDIT CARDS FOR TRAVEL PURPOSES

- A. Use of Tribal Credit Card: The Tribe's credit card shall be used only to reserve lodging accommodations and car rentals and may be used for the purchase of airline

tickets in connection with official business.

The credit card shall not be used for meals or other subsistence expenses or for gasoline or repairs of privately owned vehicles. The use of the credit card requires an approved requisition form if used for other than holding a room. The Finance Department must receive all receipts for credit card purchases within five (5) working days after expenses have been incurred. If receipts are not submitted as required, use of the credit card will be discontinued.

In no event will the Tribe's credit card be used to pay for travel expenses when a travel advance has been obtained for the trip or used for personal expenses.

The Tribe's credit card will be securely held in the Finance Department. Unauthorized and improper use of the Tribe's credit card by any individual will result in credit card privileges being revoked permanently and appropriate disciplinary action.

- B. Personal Credit Cards: Reimbursements for use of personal credit cards for business related activities will be paid at the rate as other travel where a travel expense/per diem would have been advanced prior to the trip under the same provisions contained herein. Reimbursements for personal expenses will not be authorized.

The use or reimbursement of a personal credit card for purposes of entertaining congressional, legislative, federal and state officials requires the specific authorization by the Tribal Council.

12-7. UNUSUAL/EMERGENCY SITUATIONS

- A. Unusual Expenses. Parking Tickets/Traffic Citations: Any individual, employee or Tribal official who receives a parking ticket or traffic citation of any type while traveling to business related functions using either a tribal vehicle or personal vehicle will be responsible for payment of any fines imposed. The Tribe will not be held liable for any penalties imposed on the individual.

12-8. TRAVEL REPORTS

All travelers are required to submit a written travel report with the Travel Expense Statement. Finance staff will prepare a monthly report of all outstanding or unreconciled travel advances more than 45 days past due.

Upon termination of employment, any outstanding travel will be recovered by deduction from any payment entitled the employee. Failure to comply with these procedures within a fifteen (15) working day time limit will result in a deduction from the traveler's next stipend or salary check or other payments due.

An employee who has been issued a non-refundable airline ticket and failed to travel as scheduled within one (1) year of issuance will be responsible for reimbursement to the Tribe.

12-9. TRAVEL TIME UNDER THE FAIR LABOR STANDARDS ACT

Travel overnight and away from the home community, even though no work is performed while traveling, is considered to be work time because it cuts across the employee's regular work day. The employee is viewed as substituting travel for other duties that would have been performed for the employer. Moreover, such travel time is not only hours worked on the employee's regular work days but during the corresponding work hours on non-working days as well. Thus, if an employee's regular work day is from 8:00 a.m. to 4:30 p.m., Monday through Friday, travel time during these hours on Saturday and Sunday is work time as well. Regular meal period times and travel time outside the normal work day are not considered to be work time in overnight travel away from home as a passenger on public or private transportation. This is also true if the employee is offered public transportation but requests and is permitted to drive his or her personal vehicle instead. The Tribe may count as hours worked either the time spent in driving during normal work hours or the time that would have been spent on public transportation.

SECTION 13. DRUG-FREE WORKPLACE

13-1. PURPOSE

The Tribe prohibits the manufacture, distribution, possession, or use of a controlled substance in the workplace. In addition, any employee whose use of alcohol and/or drugs directly affects and prevents the employee or other fellow employees from performing their assigned duties or causes a disruption in the performance of these duties or whose actions by reason of use of alcohol or drugs would constitute a threat to property or to the safety of others will not be tolerated. Said employee shall be subject to immediate reprimand, placement on leave without pay for the remainder of the workday and asked to vacate the employer's premises. The employee will not be allowed to return to work until in a sober condition. As a condition of employment, each employee shall abide by the terms of the Drug-Free Workplace policy and shall notify their Department Head and Tribal Chairman of any criminal drug statute conviction for a violation occurring in the workplace not later than five (5) calendar days after such conviction. Employees convicted of violating criminal drug statutes in the workplace shall be required to satisfactorily participate in a drug abuse assistance or rehabilitation program.

The Tribe intends to make a good faith effort to maintain a drug-free workplace through implementation of this policy. Any employee who violates this policy will be subject to disciplinary action.

13-2. NOTIFICATION PROCEDURES

Every employee who is convicted of a criminal drug offense shall notify the Department Head, Tribal Chairman, or Human Resources Manager within five (5) calendar days after conviction. Upon receiving notice of conviction by the employee or other source, but within ten (10) calendar days, the Department Head shall provide written notification to the appropriate individual or office in the federal agency for each grant on which the convicted employee was working. The notification shall include the employee's position title and grant notification number(s).

13-3. PENALTIES

Within thirty (30) calendar days after receiving notice that an employee has been convicted of violating criminal drug statutes, or after receiving verified information from another source relating to the conviction of an employee, appropriate personnel action shall be imposed against the employee, up to and including dismissal.

Any employee who is suspended and/or demoted due to violations of the Drug-Free Workplace policy, must be evaluated through an Employee Assistance Program and complete any rehabilitation program recommended by the evaluation. An employee who fails or refuses to participate in a rehabilitation program shall be subject to immediate dismissal.

An employee who is convicted of violating any state or federal law prohibiting the sale of a controlled substance shall be immediately dismissed upon verification, in writing, of the conviction.

13-4. DRUG TESTING

Under the Tribe's drug and alcohol testing policy, current and prospective employees who work or would work for the Tribe will be asked to submit to alcohol and drug testing. The Tribe's policy is intended to comply with all applicable laws governing drug and alcohol testing and is designed to safeguard employee privacy rights to the fullest extent of the law.

If there is a reason to suspect that an employee is working while under the influence of an illegal drug or alcohol, the employee will be suspended without pay until the results of a drug and alcohol test are made available to the Tribe. Where drug and alcohol testing is part of a routine physical or random screening there will be no adverse employment action until the test results are in.

13-5. NOTICE OF TESTING

The drug and alcohol testing procedures will act as notice of Drug and Alcohol Testing as prescribed in the Omnibus Transportation Employee Testing Act 1991 and Department of Transportation (DOT) regulations. These regulations are 49 CFR Part 653, "Prevention of Prohibited Drug Use in Transit Operations", 49 CFR Part 654, "Prevention of Alcohol Misuse in Transit Operations," and 49 CFR part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs." In addition, the Federal government published 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," which requires the establishment of Drug Free workplace policies and the reporting of certain drug-related offenses to the Federal Transit Administration (FTA).

13.6 TESTING PROCEDURES

- A. The Supervisor will contact the collection site to inform staff that an employee is being brought in for a drug and/or alcohol test.

Testing Required

- Pre-Employment – To be paid for by prospective employee
- Random – To be paid for by employer
- Post-Accident – Positive results only to be paid for by employee
- Reasonable Suspicion – Positive results only to be paid for by employee
- Return to Work – To be paid for by employee
- Follow-up – To be paid by employee
- Alcohol Breath Testing only – No cost

- B. The Supervisor will contact the Human Resources Manager to provide the employee name, date of test, and reason for the test.

- C. The Supervisor will ensure the safe transport of the employee to the collection site for post-accident and reasonable suspicion testing. **Do not allow the employee to drive.**

The Supervisor will not need to transport the employee to the collection site for pre-employment, random, return to duty, or follow-up testing.

- D. Directions for Drug and Alcohol Testing using urine sample:

1. The collection site personnel will collect the urine sample from the employee for the drug test. If the employee is unable to provide a urine sample, collection site personnel will provide the employee with no more than 40 ounces of water within a three (3) hour period. If the employee refuses to drink fluids as directed or refuses to provide another urine specimen, the individual will be considered to have refused the test which has the same consequence as a positive test.
 2. If the individual is unable to provide a specimen within the three (3) hour period, the individual must be referred for a medical examination as soon as possible. The examination must be performed to determine whether the individual's inability to provide a sufficient specimen is medically "genuine". The physician will be required to provide the Health Clinic with a brief written statement indicating whether or not the sufficient specimen was within a high degree of probability, the result of a genuine medical condition. The Clinic will in turn notify the Human Resources Manager with the results.
- E. When the collection is completed, the Supervisor will confirm with the employee that he/she is relieved of duty until the test results are known, if the test is for post-accident or reasonable suspicion.
- F. All drug tests will be reviewed by the Medical Review Officer (MRO) to verify and validate the results. If the test result is positive, the MRO has seventy two (72) hours from date of receipt to contact the employee. If the MRO is unable to contact the employee by the end of seventy two (72) hours, the test will be considered positive. If the MRO is able to contact the employee, the MRO will request from the employee any legitimate reason why the illegal drug would be in their system (i.e., prescription). If the employee is able to produce a prescription, the test will be reported as negative (prescriptions are verified and confirmed by the physician). If the employee cannot produce a prescription, the MRO will inform the employee that he/she has 72 hours in which to request a test of the split specimen. If the employee does not notify the MRO within 72 hours of the notification and there is no legitimate reason, the test will be considered positive. The MRO will contact the Human Resources Manager with the test results.
- G. If the test is for post-accident, the employee will be required complete an accident form as soon as possible.
- H. The Supervisor will ensure that the employee is transported to his/her home following the collection, if the test is for post-accident or reasonable suspicion. **The employee will not be allowed to drive.**
- I. Test results will be reported to the Human Resources Manager or Assistant. The Human Resources Manager will notify the Supervisor upon receipt of test results.

If the test result is positive, the employee will receive a mandatory referral to the Employee Assistance Program. If the test result is negative, no other steps will be necessary. The Supervisor may notify the employee of such negative test results for the employee's information.

- J. If a test is "dilute", the employee will be asked to re-test within the next 7 days.

13-7. PRE-EMPLOYMENT TESTING

The purpose of a pre-employment test is to identify applicants who have consumed a prohibited drug in the recent past. This behavior has the potential to impact the workplace and may present an unacceptable safety risk to the employee, co-workers, passengers, and the general public. Pre-employment testing identifies prospective employees who could bring a drug problem into the Tribal organization.

All offers of employment will be contingent upon successfully passing a urine alcohol/drug screening. A positive drug test (meaning any presence above the threshold levels) will disqualify an applicant for employment for a period of six (6) months.

- A. The following statement, "*The Pyramid Lake Paiute Tribe is a drug free work place. Applicants will be required to undergo drug testing prior to employment and will be subject to further drug and alcohol testing throughout their period of employment,*" will be added to all job announcements.
- B. If a supplemental questionnaire is used in the application process, it will contain the following: "*If selected, are you willing to take and pay for a drug/alcohol test?*" A 'No' response to this question will immediately disqualify an applicant from further consideration for employment. A positive test will automatically disqualify an applicant from Tribal employment for a period of six (6) months.
- C. All job offers are contingent on the applicant taking and passing a drug test. After a contingent job offer is made, the finalist will schedule a drug test. After the appointment, the employer copy of the Profile form is forwarded to the Human Resources Department.
- D. All drug tests are reviewed by the Medical Review Officer (MRO) to verify and validate the results. If the test is positive, the MRO has 72 hours to contact the individual. If the applicant does not notify the MRO within 72 hours of the notification and there is no legitimate reason, the MRO will fax the Human Resources Department with the results of positive test result. (If there is a legitimate reason, the test will be reported negative). The Human Resources Department will notify the respective Supervisor of the positive result; and will notify the applicant that the job offer has been withdrawn based on the results of the drug test.
- E. If the test is negative, the Human Resources Manager will notify the respective Supervisor of the results. The Supervisor will notify the applicant of the results and finalize the job offer.

- F. The Human Resources Department will retain records for two (2) years on all employees passing the drug test and for five (5) years on finalist(s) not passing. Test results will be stored in a confidential file in the Human Resources Department.
- G. The prospective applicant will pay for the cost of any pre-employment drug and alcohol testing.

13-8. RANDOM TESTING

Each year the Tribe must perform random drug and alcohol testing on all employees. The regulations for DOT employees require 50% of random pool be tested for drugs annually and 10% tested for alcohol. For non-DOT employees, 5%-25% of the random pool will be tested quarterly or at discretion of the Tribal Council.

An independent agency will select the random list of employees. Before being asked to submit to a random drug and/or alcohol test, the employee will receive written notice of the request and requirements.

- A. The Human Resources Department will receive a random selection list from an independent agency. Upon receipt of the random selection list for the quarter, Human Resources will contact the Supervisor or Department Head accordingly.
- B. The names received from Human Resources are to be maintained in the **strictest of confidence**. Employees are not to be informed of their selection until thirty (30) minutes prior to testing.
- C. Department Heads or Supervisors should arrange employee schedules so as to have the least amount of interruption without actually alerting the employee.
- D. Testing is to be completed no later than the 30th of the month at the end of a quarter.
- E. When sending in an employee for random testing the following should be completed:
 - The employee will be advised no more than thirty (30) minutes before they are to be tested that they are being sent in for random drug and/or alcohol testing.
 - The employee will be provided with a cover sheet to be presented at the collection site indicating which test(s) the employee is to receive.
 - The collection site will be advised that an employee is being sent for random testing.
 - The Supervisor will ensure that the employee reports to the designated collection site within thirty (30) minutes.
 - All time spent on testing, including travel time to and from the collection site is paid time.
 - Follow the Testing Procedures.
 - If the test is positive or non-negative, the steps for mandatory referral will be followed.
 - The Tribe will pay the cost of any random alcohol and drug testing.

13-9. POST-ACCIDENT TESTING

- A. Should an accident occur, drug and alcohol testing must be performed within two (2) hours following the accident. An accident is an occurrence associated with a motor vehicle which results in death, injury, or vehicle damage.
- B. The Supervisor will contact the Health Clinic and advise that an employee will be brought in for a drug and alcohol test. If alcohol usage is suspected, the Supervisor should contact the Tribal Police Department and inform them that an employee will be brought in for a Portable Breath Test.
- C. The Supervisor will ensure that the employee is safely transported to the Health Clinic or the Police Department. **Under no circumstances will an employee be allowed to drive.**
- D. The employee will be escorted to the location where the testing will be performed. A reported result that is positive requires immediate referral to the Employee Assistance Program.
- E. If the employee is unable to provide a urine sample, collection site personnel will provide the employee with no more than 40 ounces of water within a three (3) hour period.
- F. When the collection is completed, the Supervisor will reconfirm with the employee that he/she is relieved of duty until the test results are reported.
- G. All drug tests are reviewed by the Medical Review Officer (MRO) to verify and validate the results. If the test is positive, the MRO will contact the employee and inform him/her that he/she has 72 hours in which to request a test of the split specimen. If the applicant does not notify the MRO within 72 hours of the notification and there is no legitimate reason, the MRO will contact the Human Resources Department with the positive result.
- H. The Supervisor will ensure that the employee completes an accident form as soon as it is determined that the employee is capable to do so.
- I. The Supervisor will ensure that the employee is safely transported to his/her home. **Under no circumstances will the employee be allowed to drive.**
- J. The Tribe will pay for the cost of post-accident testing and reasonable suspicion testing only if the test results are negative. If the test results are positive, it will be the responsibility of the employee to pay for the test results through payroll deduction.

13-10. REASONABLE SUSPICION TESTING

The Tribe may at its discretion, require any employee to take an alcohol and/or drug test if there is reasonable suspicion that an employee is under the influence of alcohol, illegal drugs or is inappropriately using legal drugs.

- A. The Supervisor will request another Supervisor as a witness to observe behavior.
- B. The Supervisor will complete a "Reasonable Suspicion Record" form. This form must be submitted to the Human Resources Department as part of the Reasonable Suspicion Record.
- C. The Supervisor will look for substances, containers or paraphernalia in the area. If found, the Supervisor will ensure the following:
 - The immediate work area is secured.
 - The Police Department will be contacted immediately if an apparent controlled substance or an unknown substance is found.
 - Confiscation of all alcohol and retention of the same in a secure location.
 - Information from prescription medication container(s) will be recorded.
- D. The setting will be secured.
- E. The employee will be informed by his or her Supervisor of the observations.
- F. INCIDENT DETAILS. If the drug and alcohol test is due to an accident, the Supervisor will request that the employee describe the incident. The employee will be requested to clarify any gaps or inconsistencies in his/her account of what has transpired.
- G. MEDICAL CONDITION. The Supervisor will ask the employee if a medical condition exists which could account for his/her behavior; if he/she is or has been using a medically prescribed or over-the-counter medication; or if he/she has ingested a controlled substance or alcohol recently; and if so, when. All responses are to be documented.
- H. DECISION POINT. At this time, the Supervisor will review the noted observations, discussion with the employee, and the employee's work-performance problems. If it is determined that testing is not necessary, the Supervisor will explain to the employee the reasons for investigating the situation and appreciation for the employee's cooperation.

NOTE: In the end, the supervisor's decision should pass the "reasonable prudent individual" rule of thumb. That rule of thumb simply requires that a **similarly trained and experienced Supervisor, being reasonable and prudent and having observed and noted the same facts, signs, and circumstances would have come to the same conclusion.** Hunches and "gut feelings" are not valid in making a reasonable suspicion determination.
- I. The Supervisor will inform the employee that he/she is required to take a drug and alcohol test. The employee will be relieved of duty during testing and pending results.

13-11. ALCOHOL BREATH TESTING

- A. Upon arrival at the alcohol collection site, the employee must provide positive identification to the Police Department personnel conducting the test.
- B. Police Department personnel must explain the procedures to the employee. Both the employee and the Police Department Personnel must complete, date, and sign the alcohol testing form.
- C. The Police Officer will conduct a screening test. The employee will blow forcefully into a sterile mouthpiece for at least six seconds or until an adequate amount of breath has been obtained. Following the screening test, the breath test will show the result displayed on the evidential breath testing device or the printed result.
- D. If the result of the screening test is alcohol concentration of less than 0.02, no further testing is required and the test result will be reported to the Human Resources Department as a negative test. If the result is an alcohol concentration of 0.02 or greater, a confirmation test must be performed.
- E. The confirmation test is conducted at least fifteen (15) minutes, but not more than thirty (30) minutes, after the completion of the initial test. The employee must not eat, drink, or put any object or substance in his/her mouth, nor should the employee belch to the extent possible while awaiting confirmation test. The confirmation test will be conducted at the end of the waiting period, even if the employee has disregarded the instructions. The confirmation test will be conducted using the same procedures as the screening test. However, a new mouthpiece will be used.
- F. Refusal by an employee to complete and sign the alcohol testing form, to provide breath, to provide an adequate amount of breath, or otherwise to cooperate with the collection process will be noted on the form and the test will be terminated. If an employee cannot provide an adequate amount of breath for the test, he/she will be required to obtain from a licensed physician, an evaluation concerning his/her medical ability to provide an adequate amount of breath. If there is no valid medical reason, the inadequate breath will be considered a refusal to take a test.
- G. If the screening and confirmatory test results are not identical, the confirmation test is deemed the final result.
- H. The Police Officer conducting the test will sign the form and the employee will sign and date the certification statement.
- I. For employees working in safety sensitive positions, alcohol testing must be conducted using evidential breath testing devices. Only a certified technician/Police Officer can conduct the alcohol breath test.

13-12. TESTING AND WORK TIME

All time spent on testing including travel time to and from the collection site, is paid time under regular pay status, including overtime if applicable. Time off work waiting for test results, investigation of circumstances and the employee's performance record will be evaluated on a case-by-case basis by the Supervisor and Human Resources Manager to determine whether the time off will be with or without pay.

13-13. REFUSALS

If an employee refuses to be tested:

- A. The Supervisor will explain that failure to submit to a test constitutes a positive test and is just cause for termination from employment.
- B. If the employee still refuses, another Supervisor will be asked (if possible) to act as a witness and issue a second direct order to take the exam. If the employee continues to refuse, the Supervisor will relieve the employee of duty, explain that discipline will follow and transport the employee home. The Supervisor will document the employee's responses, and contact the Department Head and Human Resources Manager to review the decision of possible termination.
- C. If an agreement has been reached, the testing procedures will be followed.
- D. In cases where an employee requires emergency medical attention, the sample should be collected after the proper medical treatment has been administered. The medical facility treating the employee will be notified that urine tests are required as soon as it is safe to administer. In all cases, the employee is required to sign a consent agreement. Failure to do will constitute grounds for termination.

13-14. MANDATORY REFERRAL

If an employee tests positive for drugs and/or alcohol, or acknowledges a substance abuse problem that is affecting job performance, the Supervisor may make a mandatory referral to the Employee Assistance Program as follows:

- A. The Supervisor will inform the employee that a mandatory referral is being made for the employee to the program. The Supervisor will contact program and advise that a mandatory referral is forthcoming, and request that an appointment be made on the employee's behalf. The Supervisor will indicate whether the referral is for a positive drug/alcohol test, and that the employee is being referred for appropriate assistance.
- B. If the employee refuses to comply with a mandatory referral due to a drug/alcohol problem, the Supervisor will inform the employee of the Tribe's policy and that refusal to comply constitutes grounds for termination of employment.
- C. The Supervisor will ensure that the employee signs a release giving the program counselor permission to provide the Supervisor and Human Resources Manager with information regarding the assessment and treatment program.

- D. The employee will be relieved of duty if in a safety-sensitive position and placed on annual leave during this time. If no annual leave is available, the employee will be placed on leave without pay until a written release from the program is provided to the Supervisor.
- E. If the employee is not in a safety-sensitive position, the employee may be allowed to continue working, depending on the program's recommendation.
- F. The program will contact the Supervisor if the employee has failed to keep an appointment. Failure by the employee to keep an appointment may result in immediate termination of employment.
- G. If the employee has not kept an appointment, the Supervisor will meet with the employee. When the Supervisor meets with the employee, the employee will be asked why the appointment was not kept. If the explanation is reasonable, the employee will call the program in the Supervisor's presence to reschedule his/her appointment.
- H. If the Supervisor determines the employee's explanation is not reasonable, the employee will be reminded of the mandatory referral. If appropriate, the Supervisor will refer the employee to the program again, and explain that the employee's refusal to comply constitutes insubordination and may result in termination.
- I. If the employee still refuses, have a Supervisor serve as a witness, if possible, and issue a second order. The employee will be informed that a direct order is being given and asked if they understand. The employee will be further advised that the order is not illegal, unsafe, or injurious to the employee's health, and is a reasonable and valid request. The employee will be advised that failure to comply constitutes insubordination and the employee may be placed on suspension pending disciplinary action, up to and including termination.

The employee will be advised of the consequence of insubordination and asked if they are going to comply with the direct order. If the employee refuses to comply, the Supervisor will explain the consequence in detail, for such refusal.

- J. If the employee still refuses, the Supervisor will contact the Department Head and the Human Resources Manager for concurrence on termination of employment.
- K. Once the employee has kept his/her appointment and evaluation visit(s) are completed, recommendations will be made by the program counselor for the employee's ongoing care, if determined necessary. Options for treatment may be given with consideration given to the employee's insurance benefits.
- L. The program counselor will contact the Supervisor and Human Resources to give treatment recommendations.

- M. If the program counselor has determined it necessary to make recommendations for the employee's ongoing care, the Supervisor and Department Head will meet with the Human Resources Manager to discuss the recommendations and follow up with the employee on possible action (i.e. rehabilitation, termination, disciplinary action).
- N. If rehabilitation is selected, the Human Resources Manager will monitor compliance or non-compliance until treatment is completed, and report to the Supervisor or the individual authorized to receive confidential information.
- O. Upon completion of rehabilitation, the employee will be referred to the program for a final evaluation. A return to duty contract must be completed at this time.
- P. If the employee is released to return to work, a return to duty drug and alcohol test will be completed. Random testing will be conducted following the employee's return to duty.

13-15. LEAVE OF ABSENCE

An employee who professes to a Supervisor or Department Head that he/she has a substance abuse problem prior to exhibiting behavior leading to a decision to test, will be offered a mandatory leave of absence. An employee who tests positive will also be considered for a mandatory leave of absence conditioned upon a review of his/her performance record and the recommendation of the program.

13-16. REINSTATEMENT OPPORTUNITY

A reinstatement opportunity will at a minimum, be conditioned on the following:

- A. An employee accepts a mandatory leave of absence for a period of no longer than six (6) months. An employee may use accumulated annual leave, FMLA, be granted leave without pay or a combination of the above. Insurance coverage will be provided to the extent of the established benefit plans.
- B. An employee successfully completes the program specified by the program counselor.
- C. An employee testing positive for drugs or alcohol must be evaluated by the program counselor and pass a return-to-duty drug and alcohol test before returning to work.
- D. Agreement by employee to the conditions of a Return-to-Duty Contract.

13-17. RETURN-TO-DUTY CONTRACT

- A. Upon receipt of a written release to duty and treatment plan from the program counselor, the Supervisor will develop a Return to Duty Contract with the employee.
- B. The contract will include, but is not limited to, the following items:

1. A plan outlining the aftercare and follow-up treatment procedures with the program counselor.
2. The employee must submit to periodic, unannounced drug and alcohol tests for at least twelve (12) months, but not more than thirty-six (36) months following the return to duty. At least six (6) follow-up tests must be conducted during the first twelve months of return to work. The duration will be based on the program counselor's recommendation. Such tests, which shall consist of a urinalysis, may be ordered at the discretion of the supervisor and/or department head with no requirement for suspicion. Each test must indicate a complete absence of alcohol or any other drugs, except for medically-authorized drugs which have been previously reported to Human Resources. The employee may be subject to immediate termination or further mandatory rehabilitation and referred back to the program if any tests results show the presence of drugs and/or alcohol.
3. The Supervisor will be notified by the Human Resources Manager to conduct a follow-up test. The Supervisor will make the collection appointment for no later than an hour from notification to the employee that he/she will be tested. The Supervisor does not need to accompany the employee to collection site, and the test will be conducted on paid work time. Failure of an employee to keep an appointment may result in termination.

13-18. RETURN-TO-DUTY TESTING

- A. Before the employee can return to duty, the employee will be scheduled for an appointment at the collection site for a return to work drug and alcohol test.
- B. The Supervisor will advise the employee of the appointment. The employee may report to the collection site on his/her own.
- C. All return-to-duty drug testing must be paid for by the employee before the employee is allowed to return to work. A money order payable to the Pyramid Lake Health Clinic will be accepted at the collection site.

SECTION 14. EMPLOYEE ASSISTANCE PROGRAM

14-1. PURPOSE

The services of the Tribe's Employee Assistance Program are for all employees, including all levels of supervision and management.

The primary goals are to identify employees whose personal problems are detrimental to their job performance; or to the job performance of others; to motivate these persons to seek and accept help; to assess their problems and personal resources and develop a plan of action to help them; and to assist employees in getting the services they need so that they might live healthy productive lives. The Human Resources Department shall provide referrals to the program, the Supervisor may direct an employee to the program, or the employee may make a self-referral.

14-2. ROLE OF THE DEPARTMENT HEAD

- A. To be alert through observations of changes in the work and behavior patterns of all personnel under their supervision.
- B. To document in writing all specific instances where an employee's work performance or behavior fails to meet the minimum established standards, or where his/her individual pattern of performance appears to be deteriorating.
- C. If the usual methods of handling personnel problems have been utilized and the employee's job performance has not improved, the Supervisor shall notify the employee of the availability of counseling assistance from the program and also notify the appropriate program staff about the employee.
- D. Program staff will counsel each referred employee, determine the nature of the medical/behavioral problem, and make referral to in-house or local community resources for further medical evaluation, diagnosis, and/or rehabilitation assistance, if necessary. The program counselor, equipped with knowledge of the psychological and physiological aspects of mental and emotional disorders, alcoholism and other drug abuse, their causes and progressive symptoms, will assess the status of the employee as he/she discusses the problem with the employee. All information is confidential and only information related to ability to perform required work will be released to the employer.
- E. An employee who has been convicted of an offense relating to alcohol or drugs, will be referred to the program and will abide by the recommendations of the program staff for recovery. An employee who fails to adhere to the program staff's recommendation and drops out of the program shall be subject to dismissal.

14-3. SELF REFERRAL

If an employee voluntarily contacts the program regarding a problem, and has no impairment of job performance, he/she will receive counseling and will be referred to community resources or other facilities for such assistance as is appropriate or necessary.

Procedures to be followed will be the same as previously described with the exception that all actions are considered voluntary and no threats, implied or otherwise, will be made. The employee's request for and participation in a treatment program will be strictly confidential.

If an employee drops out of the treatment program and maintains satisfactory job performance, no further action will be taken. However, if the employee discontinues his/her participation in the treatment program and job performance, attendance, or behavior is not deemed acceptable, a joint consultation will be called to determine what action is to be taken.

The Department Head or Supervisor shall observe referred employees on a continuous basis, for signs of improvement or relapse in work performance and report these changes to the program counselor.

14-4. ROLE OF THE COUNSELOR

Overall coordination and supervision of the program will be provided by the program counselor. The role of the program counselor will include developing and supervising the necessary staff; arranging and conducting training of Supervisors; developing and maintaining counseling, rehabilitation, training, and educational resources; establishing liaison with community treatment facilities; evaluating the effectiveness of the program and reporting the results.

Development and distribution of training and educational materials to all employees will be an integral responsibility of the program.

The program counselor will ensure the maintenance of confidential documentation of employee job performance and actions taken to motivate the correction of job deficiencies. All records maintained by medical and counseling specialists, shall be treated as confidential and given the same security and accessibility restrictions as are given for medical records. Records and reports containing medical information will be maintained in accordance with the requirements of the applicable laws, regulations and guidelines.

The program counselor will establish and maintain records that will provide information for program evaluation and for annual reports required by the Tribe's funding agencies (IHS, BADA). Such records will be for statistical purposes only and will not personally identify individuals.

14-5. ROLE OF THE EMPLOYEE

The employee is responsible for maintaining a satisfactory or better work performance and conduct on the job. Employees will be aware of the danger signs of behavior problems, mental and emotional illnesses, alcoholism or other signs of substance abuse. All information shall be held confidential by the program staff. If, after counseling and evaluation, a substance abuse problem is found to exist, a planned program of rehabilitative treatment will be instituted utilizing appropriate local community resources. Earned and unused sick or other earned and unused leave shall be granted for absences so that the employee may follow the course of treatment.

The foregoing does not preclude the possibility that the employee can seek assistance directly from his/her own personal physician. The employee may wish to arrange for assistance and referral to community resources without contacting the program staff. However, if the employee has been referred to the program by the Supervisor because of poor work performance, then the treatment regimen becomes a matter of official interest for the program staff, albeit confidentiality of records will be maintained as previously stated.

14-6. ROLE OF THE SUPERVISOR

The Supervisor is responsible for providing support to the program counselor by careful and consistent attention to evaluation of the performance of those supervised, seeking the guidance of qualified counselors in problem situations, providing employees with information on available health and counseling services, and cooperating with administration when employees refuse help and continue to perform unsatisfactorily. A Supervisor does not diagnose the difficulties of troubled employees.

Supervisors have a key role in effectively implementing the program. They have a responsibility to participate in training programs and study informative materials which provide guidance and direction in dealing with employee problems; establish a working environment in which employees are motivated to seek needed assistance; to respond firmly and consistently in taking appropriate corrective or disciplinary action as necessary.

SECTION 15. GLOSSARY

These definitions shall apply wherever the following terms are used in the Personnel Policies and Procedures Manual, unless otherwise specified.

ABANDONMENT OF POSITION: When an employee is on unauthorized leave and fails to report to work for one particular day or quits by leaving the worksite without permission, his/her employment is automatically terminated as a voluntary resignation.

ABILITY: The present power to perform a function, physical or mental.

ABSENCE WITHOUT LEAVE (AWOL): Unauthorized absence without pay, which may be subject to disciplinary action.

ACCIDENT: An occurrence associated with the operation of a motor vehicle if, as a result: An individual dies; an individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; one or more vehicles involved incurs disabling damage as a result of the occurrence and is transported away from the scene by a tow truck or another vehicle.

ALCOHOL: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol's including methyl or isopropyl alcohol. References to use or possession of any beverage, mixture or preparation containing ethyl alcohol (including any medication containing alcohol).

ALCOHOL TEST: A test conducted by the Pyramid Lake Tribal Police Department using the Portable Breath Test or a test conducted by the Pyramid Lake Health Clinic using a urine sample that is sent to a licensed laboratory for results.

ALLOCATION: The assignment of a position on the basis of the kind, difficulty, and responsibility of work of the position, without regard to the incumbent.

ANNIVERSARY DATE: The date of each year of uninterrupted service in the same position from the date of hire.

ANNUAL LEAVE: Earned leave with pay which has been prior approved by a proper authority.

APPEAL: A formal procedure whereby an employee may contest a personnel action taken against the employee. The procedure is intended to safeguard an employee's interest and employment and to protect an employee against arbitrary acts by a supervisor.

APPLICATION FORMS: Documents completed by persons seeking employment. The forms require information about the applicant's qualifications for the positions for which he/she is applying.

APPOINTMENT: The process of selecting a person and assigning him/her to a position.

ASSIGNMENT TO ACTING STATUS: The authorized designation of an employee to serve in an acting capacity for a given position.

BONA FIDE OCCUPATIONAL QUALIFICATION: A legitimate reason why an employer can exclude persons on otherwise illegal basis or consideration.

CLASS: (Class of positions) - One or more positions with duties and responsibilities sufficiently alike to warrant common treatment in all personnel processes, selection, examination, training, compensation and transfer.

CLASSIFIED SERVICE: The classified service is comprised of all positions that are not elected, appointed or hired on a contractual basis.

CLASS SPECIFICATION: (Job description) - A written description of a position, showing the kind and level of work performed indicating the qualification of employees to fill a position.

CLASS TITLE: The title assigned to any particular class and used for reference to that class.

COLLECTION SITE: The Pyramid Lake Health Clinic is the designated collection site for the employee drug and alcohol testing. For breath testing, the collection site is the Pyramid Lake Police Department.

COMPENSATION: Pay and other benefits such as leave and paid insurance for services rendered.

COMPENSATION SCHEDULE: A schedule of pay grades and steps with corresponding monetary wages, which cover all classified positions in Tribal government.

CONFIRMATION TEST: For alcohol testing, a confirmation test means a second test following a screening test with a result of 0.02 or greater; for controlled substances testing, a confirmation test means a second analytical procedure to identify the presence of a specific drug metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. Gas Chromatography/Mass Spectrometry (GS/MS) is the authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.

CONTROLLED SUBSTANCE: A controlled substance as listed in schedules I through V of Section 202 of the Controlled Substances Act.

CONTROLLED SUBSTANCE TEST: A method for determining the presence of controlled substances in a urine sample using a scientifically reliable method performed in accordance with specified procedures.

CONVICTION: A finding of guilt (including a plea of nolo contendere or Alford plea) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal, state or Tribal criminal statutes.

DEMOTION: The movement of an employee from a position in a higher classification to a position in a lower classification.

DEPARTMENT HEAD: The elected or appointed official or director responsible for the administration of a department, program, agency or other major unit of the Tribe who is authorized to make appointments in that department in accordance with the personnel policies and procedures.

DILUTE TEST: A test that is neither positive nor negative.

DISABILITY: A physical or mental impairment that substantially limits one or more of the major life activities of an individual.

DISCHARGE OR DISMISSAL: The termination of employment for disciplinary cause or other reasons.

DISCIPLINARY ACTION: An action taken against an offending employee, such as: warning, written reprimand, suspension, demotion, or dismissal.

DISCRIMINATION: To fail or refuse to hire, or to discharge, any individual or to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, gender, disability, age, or national origin. To limit, segregate, or classify employees or applicants for employment in any way, which would deprive any individual of employment opportunities or otherwise adversely affect his/her status as an employee because of such individual's race, color, religion, gender, disability, age, or national origin.

DRUG-FREE WORKPLACE: A site for the performance of work at which employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, as defined in the Controlled Substance Act.

EFFECTIVE DATE: Any official personnel action such as beginning of payroll, status or salary changes, separations, leave, etc.

ELIGIBLES LIST: A list of persons who have met the evaluation requirements for a given class of positions in the Tribal service and are eligible for appointment.

EMPLOYEE: A person occupying a position in the Tribal service or a person who is on authorized leave of absence and whose position is being held pending return to duty.

EMPLOYMENT DATE: The date on which an employee commences performance of duties and is placed on the payroll.

EXAMINATION: A written, oral or physical agility test of an applicant's knowledge and fitness for a specific job class.

EXEMPT MANAGEMENT DESIGNATED EMPLOYEES: Employees who are exempt from minimum wage and overtime provisions of the Fair Labor Standards Act. The classification of Executive, Administrative and Professional employees do not receive overtime pay.

GC/MS: Gas Chromatography/Mass Spectrometry (GC/MS) or MS/MS is the authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.

GRIEVANCE: A misunderstanding or disagreement between an employee and a supervisor that relates to working conditions and relationships, or to Tribal policies, rules and regulations.

IMMEDIATE FAMILY: That group of individuals including the employee's spouse, parents, children, grandparents, grandchildren, sister, brother, aunt, uncle, niece, and nephew.

INCUMBENT: The current occupant of a position in Tribal service.

INDIAN PREFERENCE: Awarded to each qualified Indian applicant who properly requests Indian Preference by designation on the authorized application form. The applicant must include his/her Tribal affiliation and membership roll number.

INTERMITTENT: Employment on an "on-call" basis to respond to changes in workload, which are unforeseen and unpredictable in nature.

INSUBORDINATION: An intentional refusal to obey a direct order, reasonable in nature, and given by a supervisor with proper authority. This may also include a knowing violation or refusal to observe a properly adopted policy of the Tribe or Department.

JOB RELATED: Samples of knowledge, abilities, skills or other characteristics shown through a careful job analysis to be necessary or important for successful performance of a job.

KNOWLEDGE: An understanding of facts or principles relating to a particular subject or subject area.

LAYOFF: The separation of an employee from the classified service because of lack of work or funds or other reasons not related to fault, delinquency or misconduct on the part of the employee.

LEAVE WITHOUT PAY (LWOP): Leave without pay which has been approved by proper authority.

MERIT STEP INCREASE: An increase in pay from one step to a higher step in the pay range for an employee who meets the eligibility conditions specified in these policies to reflect the satisfactory job performance of the employee and his/her on-the-job development in that position.

MISUSE OF FUNDS: Use of or conversion by an employee of Tribal funds or assets of any kind without specific appropriate authorization in advance, regardless of purpose or reason.

MISUSE OF PROPERTY: Property entrusted in an employee's care, which is lost or damaged as a result of negligence or abuse.

MRO: Medical Review Officer is responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

NEGLECT OF DUTY: Failure to perform the duties appropriate to the position or office involved; and/or excessive absence or tardiness that impairs the individual's effectiveness with the Tribe.

NON-EXEMPT EMPLOYEES: Employees who are not exempt from minimum wage, overtime, and time card provisions of the Fair Labor Standards Act. These hourly employees receive pay at time and one-half of the established rate for hours worked in excess of forty (40) in a single workweek.

OCCUPATIONAL GROUP: A major division of an occupational service, composed of a series of classes involving the same kind of work.

OUTSTANDING SERVICE AWARD: An extra step increase, which may be granted to a regular employee for sustained exceptional service when approved by the Personnel Committee.

OVERTIME: Additional hours which an employee is directed and authorized to work in excess of the normal 40-hour work week, and which is compensated at time and a half. Fair Labor Standards Act requirements shall be followed.

PARAPROFESSIONAL POSITION: A position in which employees perform some of the duties of a professional or technician in a supportive role, which usually requires less formal training and/or experience normally required for professional or technical positions.

PART-TIME EMPLOYEE: An employee who is regularly scheduled to work less than 40 hours per week.

PAY ADJUSTMENT: An adjustment in pay, which results when the pay plan is amended.

PAY OR SALARY RANGE: The minimum, intermediate and maximum rates of pay established for a class in the classification and pay plans.

PBT TEST: A portable breath test that is to be conducted by a certified technician from the Pyramid Lake Police Department.

PERFORMANCE APPRAISAL: A procedure which includes the formal performance rating and the informal day-to-day evaluation of the employee through a written assessment of job performance using work performance standards.

PERSONNEL MANUAL: The official manual which outlines the policies and procedures for the personnel system.

POSITION: A group of current duties and responsibilities assigned or delegated by appointing authority to one person.

PREGNANCY LEAVE: Type of leave granted to an employee due to childbirth or complications thereof. Leave is not to exceed four (4) months without written approval.

PROBATION: A specified time period during which the employee's work is evaluated to determine suitability for regular employment.

PROBATIONARY EMPLOYEE: An employee who has been appointed to an approved position, but who has not yet completed the required probationary period for the position.

PROFESSIONAL POSITION: A position requiring the possession of a related body of knowledge and abilities, generally obtained through the completion of formal curriculum.

PROGRAM DIRECTOR: An employee who has responsibility for the supervision, management and cost efficient administration of a department and its assigned employees within the Tribal organization.

PROMOTION: The movement of an employee from a position by merit step or by class, depending on status of the employee.

REALLOCATION OR RECLASSIFICATION: The assignment of a position to a class different from the one to which it was previously assigned, based on a job analysis or study of duties, knowledge, skills and abilities.

RECRUITMENT: The process of attracting qualified applicants for employment with the Tribe.

REDUCTION-IN-FORCE (RIF): Separation of an employee from his/her position required by the Tribe, due to abolition of the position, program reorganization, lack of work or funds.

REGULAR EMPLOYEE: An employee who has been hired to a position in the classified service in accordance with this manual and after successful completion of a probationary period is of regular status.

REGULATION: A rule or order, as for conduct, prescribed by authority. A governing direction or law.

REINSTATED EMPLOYEE: An employee who has been restored to his/her former position.

REPRIMAND: A written notice to an employee that documents a deficiency in the employee's work performance or conduct. A copy of this written notice shall be placed in the employee's personnel file.

RESIGNATION: Separation from employment at the employee's request or by an employee's actions when failing to report to work as an abandonment of position and automatic resignation.

RESOLUTION: A formal written determination of the Tribal Council.

SAFETY-SENSITIVE FUNCTIONS: Duties which include operating a vehicle as part of an employee's job duties; a person who controls the movement of a service vehicle, i.e. Dispatcher, Transportation Manager, etc.; a person who repairs, maintains, or inspects vehicles, such as Maintenance Worker, Mechanic, Custodian, CHR, etc.; any person who carries or transports money, such as cashier, accountant, auditor, money counter, etc.; any person who carries a firearm, such as Police Officers or Tribal Rangers.

SALARY SCHEDULE: A system of pay ranges and steps with the same percentage of difference between each step and range.

SEAP: Sumunumu Employee Assistance Program administered by the Pyramid Lake Sumunumu Program's certified Bureau of Alcohol and Drugs (BADA) Interns, Licensed Psychologist, Social Worker, or Marriage and Family Therapist that are employed and/or contracted to provide services to patients and employees of the Pyramid Lake Paiute Tribe.

SERIES: A division of an occupational group comprised of classes similar in kind of work, but differing in level of difficulty and responsibility.

SENIORITY: Refers to the total number of paid hours served in a classification.

SEPARATION: The end of the employment relationship regardless of reason.

SEXUAL HARASSMENT: Unwelcome sexual advances, requests for sexual favors, verbal or physical conduct of a sexual nature when submission to such conduct is made a condition of an individual's employment or condition of receipt of benefits or services; submission to or rejection of such conduct if such conduct is used as a basis for decisions; and if such conduct unreasonably interferes with work performance or creates an intimidating, hostile or offensive working environment.

SICK LEAVE: Earned and paid leave, which is allowed in the case of necessity and actual sickness or disability of the employee.

SKILL: The ability to perform psychomotor acts with ease and precision.

SUMUNUMU: The Employee Assistance Program. The program is under the umbrella of the Pyramid Lake Health Clinic. Sumunumu means “one family” in Paiute. The program offers substance abuse counseling and mental health counseling. Substance Abuse Counselors of the program are certified BADA Interns whom a Licensed BADA Counselor supervises. The program also offers treatment from a licensed Psychologist and a licensed Marriage and Family Therapist or Social Worker.

SUPERVISOR: An individual with the authority to assign, direct and review the work of one or more subordinates.

SUSPENSION: An involuntary absence with or without pay imposed on an employee for disciplinary action or pending final outcome of an investigation or appeal.

TARDY: A term used to identify a situation where an employee is late reporting for work.

TEMPORARY EMPLOYEE: An employee who has received an appointment for a specifically limited period not to exceed ninety (90) days on a full-time or part-time basis, and whose appointment may be terminated at any time.

TIME SHEET: All employees are required to record their hours worked on a time sheet for a specific pay period. The time sheet also shows the employees absences (annual leave, sick leave, etc.) The employee and his/her immediate supervisor sign all time sheets.

TRANSFER: The movement of an employee from one position to another position of the same class or of another class.

TRIBAL CHAIRMAN: The Chairman of the Pyramid Lake Paiute Tribe, elected Chief Executive Officer of the Tribe.

TRIBAL COUNCIL: The elected governing body of the Pyramid Lake Paiute Tribe.

UNCLASSIFIED SERVICE: The unclassified service is comprised of all employees exempt from the provisions of this manual.

VACANCY: A duly created position, which is not occupied.



SECTION 16 TELECOMMUTING

16.1 DEFINITION

Telecommuting is a work arrangement that allows employees to work at home or at some other off-site location for all or some of their regularly scheduled work hours. Although not all jobs can be performed satisfactorily from other locations, Pyramid Lake Paiute Tribe, recognizes that, in some cases, telecommuting arrangements can provide a mutually beneficial option for both PLPT and employees.

16.2 EMPLOYEE ELIGIBILITY

Employees eligible for a telecommuting arrangement must:

- have worked at the Pyramid Lake Paiute Tribe or entities for one year;
- possess good time-management and organizational skills; and
- be self-motivated, self-reliant, and disciplined.

This may be waived however if the need justifies the means.

16.3 POSITION ELIGIBILITY

Not all jobs can be performed from off-site locations. In general, position requiring face-to-face interaction with customers, over the counter employees, and service personnel are not suitable for a telecommuting arrangements.

16.4 TYPES OF ARRANGEMENTS

While employees and supervisors have the freedom to develop arrangements tailored to department needs, however the basic requirements must be met:

- Employees must be able to carry out the same duties, assignments, and other work obligations at their home office as they do when working on PLPT's premises.
- The workweek for all full-time regular employees 40 hours, divided into five days, Monday through Friday, with employees scheduled to work eight hours per day.
- Employees must be available to attend scheduled meetings and participate in other required office activities at the home office as needed. Except for extraordinary circumstances, PLPT normally provides at least 24-hour notice for such events.

16.5 EQUIPMENT/FURNISHING/OFFICE SUPPLIES

PLPT does not provide telecommuting employees with equipment or office furnishings for their home offices. Laptops and small printers may be used if the work assigned necessitates. All office equipment must be used for the proper assignments in a manner that is efficient and expeditious. Depending on the nature of their jobs, this may require having computers, printers, computer software, fax machines, data & telecommunications equipment, internet access and other equipment available for their use.

Employees are responsible for providing office furnishings such as desks, chairs, file cabinets, and lighting – at their own expense.

PLPT provides common office supplies, such as paper, pencils, pens and paper clips for employees' use in their home offices.

16.6 REQUEST PROCESS

Telecommuting arrangements are approved by supervisors on a case-by-case basis. Telecommuting might not be feasible within some departments or for certain positions within a department. Employees interested in telecommuting arrangements should discuss the matter with their supervisors and complete a Telecommuting Request by memorandum to their direct supervisor.

16.7 OTHER REQUIREMENTS / RESTRICTIONS

PLPT has the right to cancel or suspend employee telecommuting privileges at any time, for any reason PLPT justifies the denial.



PYRAMID LAKE PAIUTE TRIBE
MANDATORY VACCINATION POLICY
(as Amended)

CVD. A. PURPOSE

In accordance with the Pyramid Lake Paiute Tribe's duty to provide and maintain a workplace that is free of known hazards, the Tribe adopts this policy to safeguard the health of its tribal members, tribal employees and their families; our customers and visitors; and the community at large, from the continuing spread of the COVID-19 virus that may be reduced by vaccinations. This policy will comply with all applicable laws and is based on guidance from the Centers for Disease Control and Prevention and local health authorities, as applicable.

CVD. B. MANDATORY COVID-19 VACCINATION REQUIREMENT

All employees are required to be fully vaccinated against the COVID-19 virus no later than September 30, 2021, unless they qualify for an exemption from this requirement.

- A. A tribal employee is considered fully vaccinated against COVID-19:
- B. 2 weeks after their second dose in a 2-dose series of an approved 2-dose vaccine, namely the Pfizer or Moderna vaccines, or
- C. 2 weeks after an approved single-dose vaccine, namely the Johnson & Johnson's Janssen vaccine.
- D. Employees not in compliance with this policy will be placed on unpaid leave until they are determined to be in compliance with this Policy by the Executive Team in conjunction with Human Resources.

CVD. C. AUTHORIZED EXEMPTIONS

A tribal employee may be eligible for an exemption from this Policy for medical reasons or a sincerely held religious belief. A medical exemption may be allowed when an individual has a medical condition that prevents them from receiving a vaccine. A medical exemption may be required when an individual has an allergy to the vaccine or a specific medical condition that precludes a vaccination. A sincerely held religious belief is one that is protected from religious discrimination under Title VII of the Civil Rights Act of 1964. They do not include social, political, economic philosophies, or personal preferences or beliefs, which are not religious beliefs protected under Title VII.

To assist any employee who has a qualifying medical condition that contraindicates the vaccination, or who objects to being vaccinated on the basis of sincerely held religious beliefs and practices, the Human Resources department will engage in an interactive process to determine if a reasonable exemption can be provided so long as it does not create an undue hardship for the Tribe and/or does not pose a direct threat to the health or safety of others in the workplace and/or to the employee. To request an exemption for one of the above reasons and avoid the vaccination requirement described above, an employee must notify Human Resources in writing and submit the request form (using the form approved by the Tribe and provided as an attachment to this policy) **NOT LATER THAN SEPTEMBER 1, 2021**. Once the Human Resources Manager is aware of a timely request for an exemption, the Human Resources Manager will engage in an

interactive process to make an exemption determination. All exemptions must be approved by the Human Resource Manager and confirmed by the Executive Team.

CVD. D. PROCESS OF VERIFICATION/ STATUS

Unless granted an exemption, before the stated deadlines to be fully vaccinated have expired, employees will be required to provide proof of vaccination, using the Proof of Vaccination Form.

Any employee who submits a false or fraudulent document or attestation in an attempt to show proof of vaccination as required under this policy may/will be terminated from employment.

Pyramid Lake Paiute Tribe will provide either onsite access to the vaccines or a list of locations to assist employees in receiving the vaccine on their own.

All employees will be paid for time taken to receive vaccinations. For offsite vaccinations, employees are to work with their supervisors to schedule appropriate time to comply with this policy.

CVD. E. UNVACCINATED STATUS

In order to ensure unvaccinated employees do not pose a direct threat to the health and safety of others in the workplace, or to the public, the Tribe may establish other requirements for employees who do not satisfy the Vaccination Requirement, or are exempt from the Vaccination Requirement, including but not limited to mandatory testing on a weekly or more frequent basis, enhanced mask wearing requirements, restrictions on eligibility for certain assignments, travel restrictions, and other requirements.

CVD. F. APPLICANTS FOR EMPLOYMENT ELIGIBILITY

All applicants for employment are required to provide proof of vaccination in the form of the official vaccination card, or receive an exemption from vaccination as allowed above. Verification will be discreet and consist of determination of eligibility only. All requirements will be applied across the board during recruitment of positions with the Tribal Organization and be the sole responsibility of the Human Resources Department.

2021 PLPT MANDATORY VACCINATION POLICY
MEDICAL AND RELIGIOUS BELIEF EXEMPTION REQUEST

(Instructions for Completing This Form)

The Pyramid Lake Paiute Tribe will provide an exemption from the Mandatory COVID-19 Vaccination Policy for an applicant or employee's medical condition or sincerely held religious belief, unless doing so would create an undue hardship for the Tribe.

If you believe you qualify for an exemption, you should request an exemption from the Human Resources Department. You may make your request by completing this Request for an Exemption Once you have completed the form, sign and submit the form to Human Resources.

After receiving this form, Human Resources will contact you to discuss your exemption request and, if necessary, request additional information to assess your request. It is important for you and the Tribe to engage in this interactive process together, so please be sure to respond promptly to any communications you receive from Human Resources relating to this request.

If you have any questions about this form or the status of any exemption request, or if you need assistance with filling out this form or making a request, please contact Human Resources at [email], (775) 574-1000, ext. 1132 or 1120

The information collected will be treated as confidential. It will not be placed in personnel files but will be separately maintained by HR and kept in a separate confidential file.

**Pyramid Lake Paiute Tribe
EXEMPTION REQUEST
OF VACCINATION**

First Name:	Last Name:
Department:	Phone Number:
Employee Email:	Supervisor Name:
Description of Exemption Request	
<input type="checkbox"/> Medical Exemption	<input type="checkbox"/> Religious Exemption
Reason for Exemption:	
<u>EMPLOYEE ATTESTATION</u>	
(Check below as applicable)	
<p>____ My religious beliefs and practices, which result in this request for a religious accommodation, are sincerely held. I understand that the accommodation requested above may not be granted but that the Tribe will attempt to provide a reasonable accommodation that does not create an undue hardship on the Tribe. I understand that the Tribe may need to obtain supporting documentation regarding my religious practice and beliefs to further evaluate my request for a religious accommodation.</p>	
<p>____ My medical doctor has determined that I have a medical condition that is a contraindication to the COVID-19 vaccination, or I have other medical conditions that prevent me from getting a COVID-19 vaccination.</p>	
<i>Employee Signature</i>	<i>Title</i>
<i>Date</i>	

<i>For use by Human Resources only.</i>		
<i>Date received into Human Resources:</i> _____		
<i>Employee approved exemption:</i> <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other: _____		
<i>Human Resources Signature</i>	<i>Title</i>	<i>Date</i>