

**Little River Band of Ottawa Indians**

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**Resolution # 03-1029-360**

*Adoption of Amendments to Government Operations Personnel Manual Regarding Short Term Disability, Personal Leave, Annual Leave, Family Medical Leave Act and Responsibilities of Tribal Manager*

WHEREAS, the status of the *Gaá Čhíng Ziibi Daáwaa Aníshinaábek* (Little River Band of Ottawa Indians) as a sovereign and Treaty-making power is confirmed in numerous treaties, from agreements with the initial colonial powers on this land, to various treaties with the United States; and

WHEREAS, the Little River Band of Ottawa Indians (Tribe) is descended from, and is the political successor to, the Grand River Ottawa Bands, signatories of the 1836 Treaty of Washington (7 Stat. 491) with the United States, as reaffirmed by federal law in P.L. 103-324, enacted in 1994; and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership on May 27, 1998, which Constitution became effective upon its approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(a) to provide for the public health, peace, morals, education and general welfare of the Little River Band and its members; and

WHEREAS, the Tribal Council re-authorized the Government Operations Personnel Manual on August 7, 2002, and adopted amendments to the document on June 11, 2003 and October 1, 2003; and

WHEREAS, the Tribal Council has engaged a consulting firm to look at various aspects of the Tribe's employment laws and regulations as well as the salary/wage scale of the Tribe; and

WHEREAS, the Ogema has been placed in charge of the responsibility of reviewing the proposed personnel manual, standard operating procedures and salary/wage scale study and working with the Tribal Council to present final documents and actions; and

WHEREAS, the Ogema has identified that the Tribe's current policies regarding short term disability insurance, Personal Leave, Annual Leave and Family Medical Leave Act applications are inconsistent and require changes in order to continue to provide benefits at reasonable costs; and

WHEREAS, the Ogema, upon approval of Tribal Council, requested a legal review of the Tribe's leave policies and presentation of options available based on the legal review and identified policies set by the Ogema; and

WHEREAS, the Ogema, and Tribal Council, have been presented with a legal review which makes recommended changes based in the proposed policies and options selected by the Ogema and Tribal Council; and

WHEREAS, the Ogema has identified that these amendments are time sensitive given the November 30<sup>th</sup> conclusion of the current Personal Leave benefit and that these new policies can integrated in the work product received from the consultant; and

WHEREAS, the Ogema has presented amendments to the Personnel Manual which recognize the hiring of a Tribal Manager and desires to have that position recognized within the personnel processes; and

WHEREAS, the Tribal Council has determined that the delegations are appropriate;

NOW THEREFORE IT IS RESOLVED THAT, the Tribal Council of the Little River Band of Ottawa Indians does hereby approve the attached amended *Government Operations Personnel Manual* with implementation dates identified as follows.

1. Short term disability insurance – new policy. Employees shall be notified that short term disability insurance has been modified and that the employee must choose to participate by *December 1, 2003*.
  - a. Participating employees will be required to pay 50% of the premium for short term disability insurance and may not change the decision to carry the insurance except in six month increments.
  - b. Failure to return a participation form to the Human Resource Department prior to *December 1, 2003* will result in the employee being dropped from the short term disability insurance benefit.
  - c. Elections to participate occur on or about *January 1<sup>st</sup>* and *July 1<sup>st</sup>* each year or as may be set by the insurance policy.
2. Personal Leave - current policy - existing personal leave is extended to expire December 31, 2003.
  - a. Employees are given the option to notify the Payroll Clerk, by form approved by the Controller, of whether they intend to carry-over hours or request to cash out under the current policy by *December 1, 2003*.
  - b. Employees requesting to cash out under the current policy shall have checks disbursed on or about December 15, 2003.
  - c. Employees requesting to carry over existing personal hours may carry

over 50% of remaining personal hours which shall take place at the end of the calendar year, all other hours shall be void.

d. *Failure to provide notice by December 1, 2003 shall result in any accrued personal leave being carried over as set forth in section 2(c).*

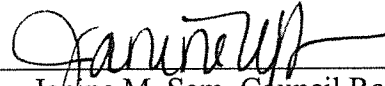
3. Personal Leave - new policy - accrual under the newly adopted policy is scheduled to begin on January 1, 2004 to coincide with the calendar year.
4. Family Medical Leave Act - application of the Family Medical Leave Act under the new policies shall take effect immediately.
5. Short Term Disability Policy - the policy of requiring annual and personal leave to be exhausted prior to applicability of short term disability insurance shall take effect immediately upon adoption of this resolution. All employees currently on short term disability shall be exempt from this requirement, which shall apply immediately upon their return to work.
6. Compensatory Time - all employees with documented compensatory time shall present such time to the Tribal Manager by November 15, 2003. The employee shall have all compensatory time scheduled so as to be concluded prior to the end of the fiscal year or, or it shall be void. All scheduled compensatory time shall be taken only with prior approval of the supervisor and Tribal Manager which shall not be unreasonably withheld.

IT IS FURTHER RESOLVED THAT the Tribal Council directs that all other amendments in the *Government Operations Personnel Manual* will be effective upon adoption of this resolution.

IT IS FURTHER RESOLVED THAT the Tribal Council directs the Ogema to set up at least one informational meeting to inform the employees of the amendments to the Personnel Manual and to present forms and deadlines as may be required under these amendments to the employee.

#### **CERTIFICATE OF ADOPTION**

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 4 FOR, 3 AGAINST, 1 ABSTAINING, and 1 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on October 29, 2003, at the Little River Band's Community Center in Manistee, Michigan, with a quorum being present for such vote.



Janine M. Sam, Council Recorder



Stephen Parsons, Council Speaker

Attest:

Distribution: Council Records  
Tribal Ogema  
Tribal Court  
Legal Department

# GOVERNMENT OPERATIONS PERSONNEL MANUAL

## CHAPTER I. INTRODUCTION

### 1.1 TRIBAL HISTORY

The Little River Band of Ottawa Indians are the descendants of and political successors to nine historical Ottawa bands whose leaders were signatories to the Treaties of March 28, 1836 and July 31, 1855. Our people have existed in Michigan from historical times to the present within separate autonomous bands that inhabited a territory extending from the Manistee River South to the Grand River in the Western Lower Peninsula of Michigan.

### 1.2 PURPOSE

This manual defines the policies and procedures for employment with the Little River Band of Ottawa Indians. These policies and procedures are designed to promote a better understanding of the rights, privileges and responsibilities of employment with the Tribe. They are also intended to establish a merit-based, uniform system for personnel administration that is designed to promote the quality and efficiency of service for the Tribal government and its members.

The policies set forth in this manual are not intended to create a contract, nor are they to be construed to constitute contractual obligations of any kind or a contract of employment between the Tribe and any of its employees. Tribe will strive to treat all employees fairly with regard to terminations. *The Tribe is an at-will employer and employees may be discharged as such without cause, however,* in general, employees will only be terminated for cause; ~~however, the Tribe is an at-will employer and employees may be discharged as such without cause.~~

### 1.3 AUTHORITY

The following policies and procedures have been authorized by the Tribal Council of the Little River Band of Ottawa Indians, and shall apply to all positions in the Tribal government. ~~This manual was updated and approved by Tribal Council action on August 7, 2002, by resolution # 02-0807-02. Amendments to this manual have occurred in the following manner.~~

1. Resolution # 02-0807-02 – Re-authorization of Manual.
2. Resolution # 03-0611-168 – Amending access to Personnel Files
3. Resolution # 03-1001-322 – Correcting drafting errors and amending grievance response deadlines.
4. Resolution # 03-1008-335 – Amending payroll period from one week to two weeks.
5. Resolution # 03-1029-360 – Adopting amendments regarding Personal and Annual Leave, among other changes.

### 1.4 AMENDMENT

The Tribal Council may, at any time, abolish, change or otherwise amend these policies and procedures. Any such action will be posted, with its effective date and the Tribal Council shall require written notice be given to every employee.

### ~~1.5 ORGANIZATION AND ADMINISTRATION~~

~~The Tribal Council and the Tribal Ogema of the Little River Band of Ottawa Indians are authorized to represent and provide leadership responsibilities on behalf of the Tribe's members, according to the terms and limitations defined in the Constitution.~~

### 1.6 SCOPE

All policies and procedures in this document apply to all employment positions, *whether employed by Tribal Council, Tribal Court, or Ogema.* 'Employment positions' shall include all positions except those listed below:

- a. Tribal Council members, Ogema, and persons appointed to fill vacancies in such elected offices.
- b. Individuals or organizations hired by the Tribal Council under contract.
- c. Tribal judges when acting in an official capacity.
- d. Employees of Tribal business enterprises.

- e. Commissioners and committee members.

## **CHAPTER II. RECRUITMENT, SELECTION AND APPOINTMENT**

### **2.1 POLICY**

It shall be the policy of the Tribe to recruit and select the most qualified persons for employment. Recruitment and selection will be conducted to provide open competition and equal employment opportunity.

### **2.2 NONDISCRIMINATION**

Except as stated in Section 2.3, it shall be the policy of the Tribe to prohibit discrimination in recruitment, selection, appointment, training, including apprenticeship, compensation, promotion or transfer, discipline, retention or any other aspect of personnel administration because of political or religious affiliation, marital status, race, national origin or other non-merit factors. No person shall be discriminated against because of age, sex, or physical disability in any conditions of employment except where age, sex, or physical disabilities constitute a bona fide occupational qualification.

### **2.3 INDIAN PREFERENCE**

The Little River Band of Ottawa Indians follows the Indian Preference in Employment Ordinance # 02-600-02 adopted by Resolution #02-0313-01.

### **2.4 NEPOTISM**

Preferential consideration will not be extended to applicants based on family ties to past or current employees or Tribal Council members. No employee, Tribal Council member, committee member, commissioner, Tribal Judge, nor the Tribal Ogema, may participate in the screening, interview, or actual selection of an immediate family member or member of the same household. The term "immediate family" for any purpose shall be defined as follows:

Spouse	Father-in-law
Father	Mother-in-law
Mother	Sister-in-law
Sister	Brother-in-law
Brother	Step Children
Children	Grand Parents
Foster Children	Grand Children

### **2.5 RECRUITMENT AND HIRING PROCESS**

The Human Resource Director will be responsible for the recruitment of candidates and posting of job opening.

The recruitment process for all positions shall begin with the review, revision, or development of a written job description. All positions shall be posted in a prominent place in the reception area in ~~each of the Tribe's offices~~ *the following buildings – Little River Band Community Center; Little River Tribal Office; Little River Band Health Center; Little River Band Downtown Office Building and Little River Newland Building.*

The Human Resource Director shall create a selection committee to review applications, interview selected candidates, and rank the top applicants. This committee shall consist of not less than three (3) persons, including the Human Resource Director and/or ~~Ogema Tribal Manager~~, the supervisor for the open position, and one Elder selected at random from the Elders pool.

The selection committee shall determine which applicants will be interviewed, and the members of the selection committee shall schedule and perform the interviews as a group. Upon completion of all interviews, the selection committee shall determine which of the applicants ranked best, second best, and third best (if at least three interviewed). Only those applicants whom the selection committee would recommend offering the position shall be ranked. If, following completion of all interviews, the selection committee believes that none of the applicants should be offered the position, the selection committee should inform the Human Resource Director of that fact and the position may be re-advertised.

The Human Resource Director shall offer the position to the highest-ranking applicant recommended by the selection committee. If the highest-ranking applicant is unable or unwilling to accept the position, the Human Resource Director shall proceed to the second highest, and then the third-highest ranking applicant.

If none of the three highest-ranking applicants is able and willing to accept the position, the recruitment process shall start again, beginning with review, revision or development of the job description.

If the applicant hired for the position vacates the position within 120 calendar days of his/her start-date, the Human Resource Director may offer the position to the second or third highest-ranking applicant without starting the recruitment process over. The Human Resource Director may, however, elect to start the recruitment process over, in which case all previous applicants will be included in the pool of applicants.

## **2.6 APPLICATION FOR EMPLOYMENT**

Persons seeking employment with the Tribe must submit a resume, and/or a completed employment application, to the Tribe, in the care of the Human Resource Director. All applications and resumes shall be maintained in an active file for a minimum of six months. After this period applicants must reactivate the application for each announced vacancy.

The Tribe shall rely upon the accuracy of information contained in the applicant's employment application and resume, as well as the accuracy of other data presented throughout the hiring process and employment. Any misrepresentations, falsifications, or material omissions in any of this information or data may result in the employer's exclusion of the individual from further consideration for employment or, if the person has been hired, termination of employment.

## **2.7 CHARACTER INVESTIGATIONS**

All positions will require a character investigation, including criminal history check and reference check. Hiring and continued employment in these positions is contingent upon meeting the standard of character the Tribe has adopted.

The Human Resource Department will conduct an investigation of the character of each individual who is employed, or is being considered for employment by the Tribe in a position that involves regular contact with, or control over children in accordance with Public Law 101-630. This investigation will, at a minimum, require that a criminal background check be conducted by the tribal official(s) designated to receive and be responsible for the results of fingerprints checks described below.

The standard of character the Tribe has established includes that no person has been found guilty of, or entered a plea of nolo contendere, or guilty to, offenses under federal, state or Tribal law involving crimes of violence; sexual assault, molestation, exploitation, prostitution, or child sexual misconduct, or crimes against persons.

All applicants for, and current employees in, such positions must sign a release of information form to authorize the release of any criminal activity on record to the Human Resource Director. The suitability of each applicant proposed for hire shall be determined in accordance with the following procedures.

### **A. Suitability Adjudication Process**

1. Purpose of Suitability Adjudication's. The adjudicative process involves an assessment of past and present conduct as it may indicate probable future actions with adverse impact on the efficiency of the interest of the Tribe or Tribal organization and Public Law 101-630, Indian Child Protection and Family Violence Prevention Act.
2. Criteria for Suitability Standards. The assessment is made to establish a reasonable expectation that the employment or continued employment of a person either would or would not promote the efficiency of the Tribe or Tribal organization. This determination is based on considerations of whether the conduct of the person indicates a potential for behavior which would interfere with, prevent, or otherwise impact adversely on (1) the performance of the person in the position applied for or employed in; (2) the accomplishment of the duties and responsibilities of others in the Tribe or Tribal organization; or (3) the ability of the employing agency to fully and effectively carry out

their mandated responsibilities.

3. Determination Factors for Suitability Standards. In determining potential impact on the efficiency of the service, two issues are considered: (1) whether the conduct in question indicates a potential for inadequate or reduced accomplishment of specific duties; and (2) whether the conduct indicates any immediate or long-term risk for abuse of the trust in carrying out the responsibilities of the position. Conduct paralleling any of the following factors may be considered as a basis for disqualification under this criteria:

- a. Delinquency or misconduct in prior employment;
- b. Criminal, dishonest, infamous or notoriously disgraceful conduct;
- c. Intentional false statement or deception or fraud in examination or appointment;
- d. Habitual use of intoxicating beverages or excess; or
- e. Abuse of narcotics, drugs, or other controlled substances.

Additional consideration. In making the suitability determination of responsible officials shall consider the following additional factors to the extent that these factors are deemed pertinent to the individual case.

- a. The kind of position for which the person is applying or in which the person is employed, including its trust risks;
- b. The nature and seriousness of the conduct;
- c. The circumstances surrounding the conduct;
- d. The recentness of the conduct;
- e. The age of the applicant or employee at the time of the conduct;
- f. Contributing social or environmental conditions; and
- g. The absence or presence of rehabilitation or efforts toward rehabilitation.

4. Basic Steps in the Suitability Adjudication Process

- a. Review all available material – SUBJECT’S application, investigative reports, Reference Check, etc.
- b. Check to see if the level of investigation scheduled correlated with the requirements for that position. A local law enforcement check shall be required for all positions. For all positions involving contact or control over children, the investigation must comply with the standards prescribed by Pub. Law 101-630.
- c. Identify the issues raised in the investigation.
- d. Determine if there is enough information in the file to adjudicate the Issues raised.
- e. If there is not enough information in the file to make a adjudication, determine where the additional information can be obtained and schedule accordingly. (EXAMPLE: further information can be obtained from the SUBJECT, local law enforcement checks, local credit checks, etc.
- f. Consider mitigating (additional considerations) factors before making an adjudication decision.
- g. Confront the SUBJECT with the issues developed through an interview or correspondence to obtain the SUBJECT’S comments.
- h. Make a decision on all the facts of the case to determine if the SUBJECT is suitable for appointment to or continued employment in the position.
- i. If the SUBJECT is denied the appointment to or continued employment in the position they should be advised of the final suitability decision.
- j. In-house procedures including union contracts, personnel procedures, etc., should be checked to make sure that the employee’s rights are not violated.

5. Designation of and Responsibilities of the Adjudicator

- a. For all positions (employee or volunteer) covered by Public Law 101-630, Indian Child Protection and Family Violence Prevention Act, Section 408, Character Investigations, only those persons designated to receive to receive and be responsible for the results of Bureau of Indian Affairs/Federal Bureau of Investigation Fingerprint/Character investigations may serve as adjudicator. In all other cases, the ~~Tribes~~ Human Resource Director, ~~or his/her designee~~, or the ~~Ogema Tribal Manager if the Human Resource Director is unavailable or unable because of a conflict of interest~~, shall serve as adjudicator.
- b. The adjudicator must have an appropriate background investigation, been found suitable and have a need to know. (EXAMPLE: an adjudicator should not read the investigative file

on a co-worker without a need to know.) The adjudicator should have a balanced, unbiased approach in the review of all investigations. A subordinate should not adjudicate his/her supervisor's case, also there are potential problems if the adjudicator personally knows the SUBJECT. Potential conflicts of interest should be avoided.

6. Procedures for Handling Reports of Investigation

- a. All reports of investigation should be treated as confidential material in regards to mailing and storage. When reports are mailed they should be wrapped in double envelopes with the inside envelope marked "Security Sensitive." Investigative reports should be stored in a locking file when not in use.
- b. The investigative reports should be mailed directly to the individual designated as the responsible adjudicator.
- c. If the background investigation is on the designated official responsible for adjudication, the name of the adjudicator should be specified on the envelope to insure that unauthorized individuals do not see it.
- d. The designated adjudicator should have their files appropriately stored in the custody of the Human Resource Director. The designated adjudicator should not have access to his/her own file. Double wrap envelopes should be used to contain security files of the adjudicative staff personnel. Initial and date the envelope when sealing it.

7. Adjudicative Process

- a. Through the use of adjudicative guidelines, the same standards and consistency are applied in handling cases. This standardization protects the rights of the SUBJECT and helps to avoid cultural and personal bias in the adjudication process.
- b. If serious questions are raised about the mental and emotional stability of the SUBJECT, consider the use of a medical referral
- c. Document everything, including telephone calls from the SUBJECT.
- d. Document the security file when the individual resigns, retires or transfers to another position that does not require the investigations.
- e. Keep the security file in chronological order.
- f. Regarding issues raised in the report – How was the adverse information developed? Did the SUBJECT try to hide this information or was it admitted?
- g. Prepare an adjudication summary sheet to be retained in the security file.
- h. Prepare a certification that included the investigation date and favorable suitability determination date.
- i. Notify the SUBJECT that he/she has been found suitable for the position, provide briefing, and notify the employing agency.

8. Due Process Guidelines

- a. A letter outlining the issues developed in the investigation must be sent to the SUBJECT. The letter should explain that the SUBJECT can provide mitigating circumstances to those identified issues. The SUBJECT can respond by writing or a oral interview within 14 days will be given to the SUBJECT. Based on the SUBJECT'S response, additional investigation may be scheduled.
- b. While equity demands uniformity in evaluating individual cases, to assure fair and consistent judgment from one situation to the next, each case must be weighed on its own merits taking into consideration all relevant facts, and the experience of similar cases. All information of record, favorable or unfavorable, must be considered and assessed in terms of accuracy, completeness, relevance, seriousness, and overall significance.
- c. After a final decision is made the adjudicator should write the applicant or employee about the decision and state that a written appeal may be filed with the *Ogema Tribal Manager*.

B. Reference Check Policy. The policy is to select and employ only those persons' whose performance, conduct and suitability will promote the efficiency of the Tribe. To comply with this policy, the Human Resource Director, or his/her designee, or the *Ogema Tribal Manager* (referred to as the "selecting officials") are to conduct reference checks before a final employment selection or job commitment is made.

1. Coverage. This policy applies to all applicants and employees who apply for positions with this Tribe's governmental organization.

2. Responsibilities.



- a. Human Resources Director
  - i. When the selection committee, referred to in Section 2.5 of these Policies, issues a candidate referral to the selecting official charged with the responsibility of reference checks, a copy of this Guide should be included. Reference checks must be conducted on the tentative selectee.
  - ii. The Tribe's legal counsel is available to advise the selecting official on the handling of any adverse or suitability information developed during the reference checks in accordance with this policy and the checks required for employees involved in child care, as required by Public Law 101-630, Indian Child Protection and Family Violence Prevention Act, Minimum Standards.
3. Selecting Official Charged With the Responsibility of Reference Checks
  - a. The selecting official, after receipt of a candidate referral from the Human Resource Department, will review the candidate's job application and decide whether to conduct reference checks on several candidates or only on the tentative selectee. However, reference checks must be conducted on the tentative selectee.
  - b. Before starting the reference check, the selecting official should check to see if the applicant has suggested on the job application that the present employer should not be contacted. The selecting official should contact the applicant to learn why the present employer should not be contacted.

However, at some point before final selection, the candidate should allow the selecting official to contact the current employer for a reference check.
  - c. The selecting official will decide whom to contact for references. The most likely reference sources are the current and former supervisors of the candidate, some co-workers and possibly the personal references listed on the candidate's application.
  - d. The selecting official will decide the appropriate questions to ask. This will be based on consideration of the information already available and the job requirements of the position to be filled.
  - e. The selecting official will decide how to conduct the reference checks and the methods to be used. Typically, it will be by telephone contact. (NOTE: Telephone contacts are faster and better than letters for obtaining references because people are much more likely to verbalize negative comments than to commit them to writing.
  - f. The selecting official should note the candidate's answers to questions concerning being fired, felony violations, firearms or explosives violations, other violations of law, probation or parole, court-martial convictions, and Federal debt delinquencies. If there is a "Yes" answer to any of these questions, the personnel office should be consulted to help resolve the suitability issue.
4. Interpretation of Reference Check Information. Reference check information must be carefully interpreted. Listening closely and being alert for information that warrants additional clarification can maximize the value of checking references through current employers and associates. A discernible lack of enthusiasm by the current employer in talking about a candidate may suggest a reluctance to be candid about the candidate's problems or substandard performance. When such reluctance cannot be overcome, selecting officials should contact previous employers who may have other perspectives on the candidate's work or character, and may be more willing to talk about problem areas. On the other hand, the current employer may not be the best source of information if he/she is attempting to encourage the move of an unwanted employee.
5. Release of Information. Information collected through reference checks are considered the selecting official's memory jogger notes and must not be revealed to any other persons not involved in the selection decision. These notes must always remain under the control of the selecting official and are to be destroyed by the selecting official when he/she decides they have served their purpose. These notes must be retained for a sufficient time to assure that any potential complaints regarding the selection are resolved.

At the end of the job application, there is an authorization for the release of information clause that the candidate has to sign. This is the basis for collecting additional information about the candidate.

## 2.8 APPOINTMENTS

A letter from the Human Resource Director will confirm all appointments to employment positions with the Tribe. The letter will identify the position, starting salary, applicable fringe benefits and beginning date.

## **2.9 CLASSIFICATION OF EMPLOYMENT**

The following definitions describe the various categories of employment with the Tribe. Included in each category is an identification of benefits eligibility.

- a. Permanent, Full time – Employees scheduled to work at least 32 hours/week or at least 64 hours during a two-week pay period in a position that is expected to continue for more than one year will be classified as permanent, full time employees. All permanent, full time employees are eligible for all employee benefits.
- b. Permanent, Part time - Employees scheduled to work less than 32 hours/week or less than 64 hours during a two-week pay period in a position that is expected to continue for more than one year will be classified as permanent, part time employees. All permanent, part time employees are eligible for benefits on a pro-rated basis.
- c. Temporary – Employees hired for a position that is expected to continue for less than one year shall be considered temporary employees. Temporary employees may work up to 40 hours/week or 80 hours in a two-week pay period. Temporary employees are not eligible for benefits other than required by law or specified at the time of employment.
- d. Student, Intern, or Trainee – A person appointed to participate in a work experience, training or intern program that is for a limited time period not to exceed one year. The student, intern or trainee may or may not receive compensation and shall not be eligible for benefits other than required by law.

Employees shall also be classified as hourly or salaried as follows:

- a. Hourly – Employees working in a position that is classified as Level 4 or less by the job description for that position shall be paid at an hourly rate of pay. All permanent, full time, hourly employees are eligible for all employee benefits. All permanent, part time, hourly employees are eligible for benefits on a pro-rated basis.
- b. Salaried - Employees working in a position that is classified as Level 5 or above by the job description for that position shall be considered a salaried employee. Salaried employees are exempt from the hours and over-time provisions of the Fair Labor Standards Act. All permanent, full time, salaried employees are eligible for all employee benefits. All permanent, part time, salaried employees are eligible for benefits on a pro-rated basis.

## **CHAPTER III. PERSONNEL ADMINISTRATION AND DEVELOPMENT**

### **3.1 PERSONNEL RECORDS**

All employee's shall have an official personnel file containing such items as:

- a. Application for employment
- b. Position description
- c. Job Performance Appraisals
- d. Health benefit enrollment forms
- e. Tax withholding forms and other income deduction forms
- f. Salary information
- g. Attendance records
- h. Counseling and/or disciplinary action
- i. Commendations
- j. Personal data such as emergency telephone numbers

All employee information is strictly confidential and access to personnel files is limited to –

- a. *Payroll Accountant, for payroll related purposes only*
- b. Employee's supervisor
- c. *Ogema, and legal counsel*
- d. *Tribal Council, and legal counsel*
- e. *Tribal Manager*
- f. *Assistant Tribal Manager*

Any disclosures from an employee's personnel records will not be provided without the employee's written authorization, except as required.

Personnel records may be accessed by presentation of written authorization ~~by the Ogema on a form created by the Human Resource Department by any of the individuals listed above.~~ Such authorization shall be for a limited purpose, shall specifically identify the individual to whom the records shall be released, and shall include a confidentiality statement, signed by the individual seeking access to the file, that the individual is bound to maintain the records in a confidential fashion, unless applicable law dictates otherwise. ~~The Ogema shall forward a copy of the authorization to the Tribal Council Recorder, and the original shall be placed in the file with an identification of the records released under this authorization.~~

An individual may see their own personnel file at reasonable times and intervals. If the employee does not agree with any information contained in their personnel file, they may submit a written statement explaining their position, which will be made a part of the employee's file.

It is the responsibility of each employee to promptly notify ~~his/her supervisor or the Ogema~~ *the Human Resource Department* of any changes in personnel data. Personal mailing addresses, telephone numbers, number and names of dependents, individuals to be contacted in the event of emergency, educational accomplishments, and other such status reports should be accurate and current at all times.

### **3.2 JOB DESCRIPTION**

Every position with the Tribe shall be described in writing by a job description. Each employee shall be given a copy of the job description for their position when hired and such employee must sign a copy of the description to indicate that they understand the duties, responsibilities and requirements of their position and a copy placed in their personnel file. At a minimum, job descriptions shall include:

- a. Position/title
- b. Title of the supervisor
- c. Duties and responsibilities
- d. Desired qualifications with respect to experience, skills, education, knowledge, and abilities required for the job.
- e. Salary range

The position's supervisor will write job descriptions, with the assistance of the ~~Ogema~~ *of the Human Resource Department*. *Job descriptions must be approved by the Tribal Manager.* Job descriptions may be amended as necessary by the supervisor with the written approval of the ~~Ogema~~ *Tribal Manager*. Revised job descriptions must be signed by the employee to signify acknowledgment and understanding of the change in duties or responsibilities.

### **3.3 WORK PLANS**

Work Plans shall be required for certain employees, annually, on the basis of key responsibilities in the job description. The employee, in consultation with the employee's supervisor, shall design work plans. Activities in the work plan will have a specific time frame and measurable objectives. Work plans may be subject to review or revision by the employee's supervisor and the ~~Ogema~~ *Tribal Manager*.

### **3.4 ORIENTATION**

The Human Resource Department is responsible for ensuring that all new employees receive adequate orientation. The employee is required to report to the Human Resource Department on the first day of employment so that an orientation can be arranged. The orientation will consist of the following procedures:

- a. The new employee will be given a copy of the personnel policies and procedures manual. The Human Resource Department will review the general provisions of the manual and answer any questions. A subsequent appointment will then be scheduled between the new employee and the Human Resource Department to review the provisions of the manual in detail, after the employee has had time to read it thoroughly.
- b. The Human Resource Department will assist the new employee in completing all required forms including federal withholding forms, insurance enrollment cards, personnel forms, etc. The Human

Resource Department will prepare a personnel file for the new employee and all necessary documentation shall be placed in that file.

c. The Human Resource Department, or the employee's supervisor, will give the new employee a tour of the facilities. Every effort should be made to introduce the new employee to co-workers and ease their adjustment to the new work environment.

d. The supervisor will review the position description with the new employee, answer any questions, and set short-term work goals.

### **3.5 PROBATIONARY PERIOD**

Each new employee shall serve a three (3) month probationary period. This period is for the purpose of training, observing and evaluating the new employee's work and conduct to determine if the new employee is capable of performing job requirements in a satisfactory manner. During this period supervisors are expected to regularly observe the employee's work and to discuss performance expectations and standards with the new employee.

Probationary employees are entitled to all benefits extended to regular employees *upon meeting eligibility requirements for those benefits as set forth in this manual or as may be identified in insurance and retirement plans*. However, probationary employees may not take annual *or personal* leave until they have successfully completed the probationary period. ~~Personal leave may be used by probationary employees at their discretion and in a manner consistent with the policies and procedures defined in this manual.~~

Probationary employees will be evaluated at the end of three (3) months. Evaluations will focus on work performance, attitude, commitment to Tribal endeavors, attendance record, and other relevant job factors stated in the job description.

Evaluations will be conducted by the employee's supervisor and will be reviewed and approved by the ~~Ogema~~ Tribal Manager. The supervisor shall discuss the results of the evaluation with the employee and be signed by both the supervisor and employee before the evaluation is made part of the employee's record. Unsatisfactory performance will be brought to the attention of the employee during the initial evaluation.

Probationary employees must receive at least a satisfactory rating of performance at the end of the probationary period before attaining the status of a regular employee.

At the end of the probationary period, the recommendation to retain or dismiss the probationary employee, or to extend the probationary period an additional two months, will be made by the supervisor, subject to the approval of the ~~Ogema~~ Tribal Manager. No more than one (1) extension may be given to a probationary employee.

Employees who do not satisfactorily complete the probationary period will be dismissed. A letter detailing the reasons for dismissal will be prepared by the ~~Ogema~~ Tribal Manager and given to the employee. A copy of the letter will be placed in the employee's personnel file.

### **3.6 JOB PERFORMANCE APPRAISAL**

The job performance appraisal is intended to serve several purposes. It is intended to identify and evaluate the employee's strengths and weaknesses and to measure his or her progress. It is also a management tool to assess the employee's potential for promotion and/or pay raise. And it is an attempt to clarify the supervisor's expectations, provide guidance and promote open communication between the employee and supervisor. The following criteria will be standards to measure the performance of the employee in the appraisal:

- a. Ability to assume the duties defined in the employee's job description.
- b. Ability to complete the activities identified in the employee's work plan, if applicable.
- c. Quality of work.
- d. Attendance and promptness.
- e. Ability to relate well and get along with others including co-workers, clients, and the community at-large.
- f. Attitude – particularly as it applies to accepting direction and/or criticism from the employee's

supervisor or other managerial staff.  
g. Initiative.

The initial job performance appraisal will be conducted at the end of the employee's probationary period (refer to 3.5).

Afterwards, each employee will have a job performance evaluation at least once every twelve months, based on the anniversary of the employee's date of hire. The job performance appraisal shall be conducted by the employee's supervisor and shall be subject to the approval of the *Ogema Tribal Manager*.

A copy of the written report will be provided to the employee. The report will be signed by the supervisor, initialed by the employee and placed in the employee's personnel file. The employee's initials on the job performance appraisal indicate receipt of the copy and in no way implies that the employee agrees with the said evaluation. The employee may place a statement in regards to the appraisal in the personnel file, if so desired.

Where an employee requires disciplinary action, the employee may receive an interim job performance appraisal for purposes of corrective action. Continuing employment depends upon maintaining a satisfactory level of job performance.

### **3.7 CONTINUOUS LENGTH OF SERVICE**

Continuous length of service for an employee is that period of employment with the Tribe that is considered unbroken. Continuous length of service shall be considered as broken for the following reasons:

- a. An employee resigns in poor standing.
- b. An employee is terminated.

Time spent on leave of absence shall not be considered to be a break in service. Seniority and fringe benefits will be retained but not accrued.

### **3.8 RESTORATION OF LENGTH OF SERVICE**

- a. Employees who have resigned in good standing shall have their length of service restored if they are re-hired within two (2) years of the date of resignation.
- b. Employees who have been laid off with more than six months of full-time continuous service at the time of lay-off who are re-hired by the Tribe within one (1) year from the date of lay-off will have his/her length of service restored.
- c. Employees who are terminated and who are later re-hired by the Tribe will not have any prior length of service restored. The only exceptions are employees who are re-instated after successfully appealing their termination through the Grievance Procedure. In such cases, the re-instated employee will have their length of service restored.

## **CHAPTER IV. EMPLOYEE COMPENSATION**

### **4.1 COMPENSATION POLICY**

~~All regular employees of the Tribe are considered salaried employees, unless the terms of such employee's appointment clearly states otherwise.~~ All employees are paid in two week installments. ~~Salaried employees are required to work 40 hours per week on a regular basis to receive full compensation. Employees working less than 40 hours per week shall receive a pro-rated portion of the weekly installment for such employee's salary.~~

### **4.2 PAYROLL PROCEDURES**

~~Employees will be paid on a weekly basis.~~ The first day of the pay period is Monday and the last day is Sunday. Payroll checks will be issued the Wednesday following the end of the pay period.

*All hourly employees must complete a time sheet for each pay period. All salary employees shall submit time sheets when utilizing personal or annual leave.* The employee and his/her supervisor must sign time sheets. Each supervisor is responsible for verifying all subordinates time sheets and submitting them to the *Ogema*

*Tribal Manager on the Monday following the pay period. An employee falsifying a time sheet is subject to immediate suspension up to one week or termination, and may include civil or criminal actions.*

The employer takes all reasonable steps to assure that employees receive the correct amount of pay in each paycheck. In the event that there is an error in the amount of pay, the employee should promptly bring the discrepancy to the attention of the ~~program director or Ogema~~ supervisor and the Tribal Manager so that corrections can be made as quickly as possible.

It is the policy of the Tribe to distribute paychecks only to the employee in whose name the check issued. Employees who are absent on payday and wish to have someone pick up their check must do one of the following:

- a. Notify the Payroll Accountant in advance.
- b. Provide their representative with a signed authorization to pick up their check. This option is restricted to immediate family members or fellow employees.

#### **4.3 PAY ADVANCES**

An employee may receive a payroll advance if, on the next regularly scheduled payday, an employee plans to be out of town:

- a. on an authorized travel assignment; or
- b. on authorized scheduled leave time.

All payroll advance requests must be accompanied by an approved, completed timesheet. Hours may not be recorded on the timesheet for work that has not yet been performed.

#### **4.4 COMPENSATION SCHEDULE**

The compensation plan of the Tribe shall include a schedule of pay ranges for all existing positions. This is referred to as the Competitive Wage Schedule, and it is based on the principle of equal pay for equal work. Employees shall be paid a wage within the established range for the position. Pay ranges shall be determined with regards to such factors as:

- a. The relative difficulty and responsibility of the job.
- b. The prevailing rate in both public service and the private sector.
- c. The financial condition and policies of the Tribe.
- d. Special grant or contract provisions and applicable ~~state~~ or federal laws.

A current list of positions, including competitive salary ranges will be maintained and included in the Appendix, "Competitive Wage Schedule of the Personnel Policy Manual." A separate narrative will also be included in the appendix, which will clearly define the employee expectations for each level. As new positions are created, a comparison study will be conducted by the Human Resource Department to determine a fair and competitive wage range for the positions.

The Tribal Council and Ogema will review the Competitive Wage Schedule on an annual basis and a wage comparison study will be conducted every two years to reflect current needs and conditions.

#### **4.5 SALARY ADJUSTMENTS**

Salary increases are based on a combination of factors including job performance appraisals, successful completion of credited training hours, documented completion of certifications, licenses, two, four and postgraduate degrees.

Salary increases associated with job performance appraisals will only be considered on an annual basis. Based on employees review, 0 to 4% increase will be awarded.

Compensation for documented completion of certifications, licenses, two, four and postgraduate degrees will be awarded at the time that proof of completion is presented to the Human Resources Department and all proper paper work is completed with accounting and payroll.

Added To  
Base Pay

One Year Certificate ♦ Accredited	\$ 500.00
Two Year Certificate ♦ Accredited	\$1,000.00
Associates Degree	\$1,500.00
Bachelors Degree	\$2,500.00
Masters Degree or Highest in Field	\$5,000.00
25 Documented Continuous Credit Hours	\$ 250.00

Compensation for completion of pre-approved job-related training hours will be awarded at the time that proof of completion is presented to the Human Resources Department and all proper paper work is completed with accounting and payroll.

	Added To
	Base Pay
25 Documented Continuous Credit Hours	\$ 250.00

#### 4.6 COST OF LIVING INCREASES

Only the Tribal Council may make cost-of-living increases, including those that alter the job classification plan.

#### 4.7 OVERTIME POLICY

For the purposes of assigning overtime pay, employees shall be classified by the normal hours of operation for the department in which they are employed.

- a. Hourly employees working in a department (Public Safety and Surveillance, for example) that must have personnel on duty 24 hours a day, 7 days a week shall incur overtime pay at the rate of one and a half times regular pay, whenever the employee is required to work more than 12 hours in a day or 80 hours in a two week pay period. Overtime must be pre-approved with the employee's supervisor and documented on the **Work Schedule Variance Approval Form**. It is the responsibility of the employee to attain the appropriate form and signatures to be submitted with their employee time record.
- b. Hourly employees working in a department that normally has personnel on duty during normal business hours, M-F, 8 am to 5 pm, shall incur overtime pay at the rate of one and a half times regular pay, whenever the employee is required to work more than 12 hours in a day or 40 hours in a week. Overtime must be pre-approved with the employee's supervisor and documented on the **Work Schedule Variance Approval Form**. All efforts should be made to grant compensatory time in accordance with the procedures set forth in Section 5.2 before approving overtime for employees in the 40 hour/week job category. It is the responsibility of the employee to attain the appropriate form and signatures to be submitted with their employee time record.
- c. All salaried employees are exempt from overtime pay. Should it be necessary for a salaried employee to work overtime, all efforts should be made to grant compensatory time in accordance with the procedures set forth in Section 5.2.

### CHAPTER V. WORK HOURS AND SCHEDULES

#### 5.1 WORK HOURS

The normal work schedule for all employees is five days a week, nine hours a day, which includes a 1-hour meal break. Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week.

The employee's supervisor will set each employee's work schedule according to the needs of the Tribe and the program. Changes in the work schedule are at the discretion of the supervisor, not the employee.

Scheduling, including approval of leave requests and compensatory time, shall ensure that all Tribal administrative and program offices can be open for the transaction of business Monday through Friday of each week, from 8:00 a.m. until 5:00 p.m. Excepted are departments requiring shift work.

*Lunch Periods and Rest Periods* – Each employee shall be allowed a one-hour lunch period daily. Lunch periods shall be staggered so as not to curtail services to the public. Employees may elect, with the approval

of their supervisor to take a 30-minute lunch period. In such situations the reporting or leaving time can be adjusted accordingly. Unless required and ~~requested~~ *approved* by a supervisor, and employee will not be compensated for the time worked through a lunch period.

*Employee Responsibility* – Employees are expected to conform to the above hours of work, report promptly for work and remain until the close of their regular shift. Anyone unable to report for work on time, for any reason, is expected to telephone their supervisor at least 30 minutes prior to the start of their scheduled shift.

Employees on field assignments or on travel status are ~~expected to exercise sound judgment in regards to an eight-hour working day considered to have worked an eight hour day for each full day on field assignment or travel. Each employee is expected to work an eight hour day, which includes attending conferences or training periods.~~

In addition, note that certain grant programs require that working hours be documented through time checks with supervisors or his/her designate.

## **5.2 — COMPENSATORY TIME**

~~If it is necessary for any employee to work in excess of 40 hours per week, up to 4 hours of compensatory time may be granted by the Ogema Tribal Manager. The Ogema Tribal Manager must approve requests for compensatory time before an employee accumulates any excess hours during a given workweek. Requests for compensatory time must be made in writing, specifying the reason(s) it will be necessary for the employee to work in excess of 40 hours and the date/time the employee wishes to use the compensatory time. Failure to follow these guidelines will result in denial of the request for compensatory time and the employee will not be paid for unapproved compensatory time. The use of compensatory time must be approved in writing by an employee's supervisor, and is subject to cancellation if the employee is needed at work.~~

~~An employee may not accumulate more than 4 hours of compensatory time per week. All compensatory time accrued must be used before the end of the next pay period.~~

## **5.3 TIMEKEEPING**

Accurately recording time worked is the responsibility of every employee. Federal regulations require the Tribe to keep an accurate record of time worked. Time worked is all the time actually spent on the job performing assigned duties.

The employees must comply with the timekeeping system implemented by the Tribe. Failure to properly comply with the requirements of the timekeeping system can result in disciplinary action.

~~All employees except those excluded by the Tribal Council must record their time through the use of time clock or other method established by the Ogema time sheets, or as directed by the Tribal Manager. Failure to properly utilize the time clock or other method for accurately recording time worked in a proper manner can result in disciplinary action.~~

Tampering, altering, or falsifying time records, or recording time on another employee's time record may result in disciplinary action, including discharge.

All employees must submit an approved timesheet to the ~~Ogema Tribal Manager~~ the Monday before payday. An employee who does not submit a timesheet on time must submit an approved timesheet before receiving a payroll check. The time sheet is approved by signature of the employee's supervisor.

# **CHAPTER VI. BENEFITS, HOLIDAYS AND LEAVE**

## **6.1 EMPLOYEE BENEFITS**

All regular full-time, regular part-time, and probationary employees are entitled to certain fringe benefits that are identified in this section. For purposes of entitlement to benefits, regular, full-time employees are defined as those employees working 32-40 hours per week. Regular, part-time employees working less than 32 hours per week are eligible for benefits on a pro-rated basis as allowed by the specific provisions of the benefit plan.



Certain benefits are limited only to full-time employees.

Excepting those benefits required by law, all other insurance benefits are subject to the availability of funds. The Tribal Council reserves the right to determine appropriate insurance programs within the constraints of available budgets, or to terminate insurance benefits, as circumstances require.

Certain employees will be tax exempt because they are Tribe Tribal members and their positions involve the protection, enforcement, or administration of treaty resources. These employees may have different benefits than other employees. Differences in benefits are noted in these policies.

## **6.2 REQUIRED BENEFITS**

All non-tax exempt, regular or temporary, full and part time employees are provided with standard benefits prescribed by applicable federal and state law. They include Social Security (FICA), Medicare (MEDI), state unemployment insurance (SUTA), and workers' compensation.

Employee's contribution to the cost of Social Security coverage is defined by law and is automatically deducted from each paycheck. The Tribe pays all costs for providing Unemployment Insurance and Workers' Compensation.

## **6.3 HEALTH INSURANCE**

All regular full-time and probationary full-time employees may be provided with comprehensive major medical coverage. Employees should refer to the insurance brochure for the limits and conditions of this coverage. All employees must complete an enrollment form during the orientation process, which will identify family members covered by the plan. The Tribe pays for the cost of this health insurance coverage.

Employees who are separated due to lay-off, resignation, dismissal or other separation are covered under the health insurance plan for one (1) month following the date of separation. However, the employee must pay twenty (20) percent of the premium for this coverage, which will be deducted from the final paycheck, unless the employee waives the right to this coverage, in writing.

## **6.4 LIFE INSURANCE**

All regular full-time and probationary full-time employees may be provided with a term life insurance policy. Employees should refer to the insurance brochure for the limits and conditions of the policy. The Tribe pays for the cost of this benefit.

## **6.5 SHORT-TERM DISABILITY**

*All eligible regular full-time employees may be provided with short term disability insurance coverage after 7 days absence from the work place in accordance with the requirements of the Tribe's insurance place at that time. Employees are required to exhaust all Personal and Annual leave accrued prior to utilizing this insurance.*

*The Tribe offers this insurance benefit to eligible employees who choose to accept it by filing with the Human Resource Department the appropriate signed and dated insurance acceptance form. An employee is eligible for the short term disability insurance benefit if he or she is –*

- a. a regular full time employee; and*
- b. employed in continuous service with the Tribe for 12 months.*

*The Tribe pays 50% of the cost of the short term disability insurance benefit. Employees who elect to participate will have the remaining cost deducted from the employee's payroll.*

~~All regular full-time employees may be provided with disability insurance coverage. Eligible employees may be covered with short and long term disability coverage. Employees should refer to the insurance brochure for the limits and conditions of the coverage provided. The Tribe pays for the cost of this benefit.~~

## **6.6 RETIREMENT/PENSION PLAN** **[RESERVED]**

## 6.7 HOLIDAYS

The Tribe recognizes the following designated holidays and grants time off with pay to all employees.

New Years Day	Veteran's Day
Treaty Recognition Day (March 28 <sup>th</sup> )	Thanksgiving Day
Memorial Day	Friday after Thanksgiving Day
Independence Day	Christmas Eve Day (half day)
Labor Day	Christmas Day
Reaffirmation Day (Sept. 21 <sup>st</sup> )	

- a. Hourly employees, working in a department (Public Safety and Surveillance, for example) that must have personnel on duty 24 hours a day, 7 days a week, and that are required to work on the exact date of any designated holiday will be paid at two times their regular rate of pay for all hours worked. Employees must work their regularly scheduled day before and after the designated holiday in order to receive holiday pay.
- b. Employees on a leave of absence without pay or suspended due to disciplinary action are not entitled to holiday pay during that time period.
- c. Hourly employees working in a department that normally has personnel on duty during normal business hours, M-F, 8 am to 5 pm, as well as all salaried employees, shall observe holidays that fall on Saturday on the preceding Friday and shall observe holidays that fall on Sunday on the following Monday.
- d. Holidays that fall within an employee's pre-approved annual leave or personal time off request will be granted holiday pay for the observed holiday.

## 6.8 ANNUAL LEAVE

Regular full-time and regular part-time employees are eligible for annual leave benefits as described below. *Annual leave shall be utilized, after exhaustion of available personal leave, until exhausted by employees requesting Family Medical Leave during the time off requested by the employee. Annual leave shall be exhausted, after exhaustion of available personal leave, by employees prior to utilizing short term disability insurance or other insurance benefit provided by the Tribe.*

Up to 80 hours of annual leave can be carried over from year to year. Unused annual leave in excess of 80 hours expires without compensation.

Employees requesting annual leave for more than one day at a time are required to notify and obtain the approval of their supervisor and the ~~Ogema~~ Tribal Manager at least one week prior to the anticipated annual leave. Employees requesting annual leave for one day or less are required to obtain the approval of their supervisor at least 48-hours in advance of the anticipated annual leave. No annual leave will be taken in less than 4-hour blocks of time. If a holiday falls within an annual leave period, it will not be considered as a vacation day. Annual leave shall not accrue during an employee's leave of absence.

Upon separation either by lay-off, firing, quitting or other separation, the Tribe will pay cash value for accrued annual leave at the employee's current rate of pay.

In the event a Little River Band program is phased out, employees shall be notified *by the Tribal Manager* of the effective date the program ends in order that the employee can use all accrued annual leave before the program ends. It shall be the responsibility of the program director or supervisor to notify the affected employees of any such project termination date and the amount of annual leave the employees have accrued.

Regular full-time employees shall earn annual leave based upon their continuing length of service with the Little River Band. Annual leave shall be earned according to the following schedule:

- a. Regular full-time employees with up to one year of service shall accrue annual leave at a rate of one (1) hour per forty (40) hours worked. Accrual begins from the first day of employment. However, no annual leave will be granted to a new employee until he/she has satisfactorily completed the probationary period.
- b. Regular full-time employees with one (1) to seven (7) years of service shall accrue annual leave at a rate of two (2) hours per forty (40) hours worked.

c. Regular full-time employees with seven (7) or more years of service shall accrue annual leave at a rate of three (3) hours per forty (40) hours worked.  
Regular full-time and regular part-time employees who work less than 40 hours per week will receive annual leave on a prorated basis.

## **6.9 PERSONAL LEAVE**

To recognize the occasional need by employees to be absent from their schedules for personal purposes the Tribe grants personal leave. Personal leave can be used for any purpose that the employee desires. *Personal leave shall be utilized until exhausted by employees requesting Family Medical Leave during the time off requested by the employee. Personal leave shall be exhausted by employees prior to utilizing short term disability insurance or other insurance benefit provided by the Tribe.* Typical uses of personal leave might be:

- a. to attend doctor or dentist appointments.
- b. to stay home when ill.
- c. to attend to sick children or attend school functions.
- d. to spend time with out-of-town visitors.
- e. to come in late because of car trouble, but still get a full paycheck.

Personal leave replaces sick leave, which is not a form of leave bused by the Tribe. With personal leave, the employee is not required to explain or justify his/her use of the time. This removes the supervisor from any responsibility for determining whether the leave should be approved. As long as the request for personal leave is made directly to the supervisor before it is used, the supervisor is expected to grant the request. However, all employees are forewarned that leave is not automatically granted when they call in or send a message.

Employees are asked to make their requests for personal leave with as much advance notice as possible, to allow the supervisor to adjust the schedule. In the case where personal leave is expected by the employee to last for more than one scheduled day, the employee may request the full amount of desired time with one request.

If the employee requests personal leave for one day but later decides that s/he will need an additional day (or part of a day), the employee must notify the supervisor of the need for the additional time prior to the regularly scheduled work time. That is, personal leave pay will not be granted for the second day unless the request was received before the beginning of the scheduled work time.

The Ogema, with consultation from the Human Resources Director and supervisor, may grant personal leave payment even though prior notice was not received, and it is expected that such granting shall be for valid emergencies only.

Employees are advised to study the section of this policy that requires supervisors to keep track of their employees' use of personal leave to look for patterns of abuse. Though the objective of personal leave is to allow the employee freedom from supervisory prying into the employee's personal life, employees are expected to recognize that the Tribe's goals are important to supervisors.

### **Calculation of Personal Leave**

*Employees are eligible to begin accruing personal leave after 90 days of employment with the Tribe. Regular full-time employees shall earn personal leave based upon their continuing length of service with the Little River Band. Personal leave shall be earned in at a rate of 1.5 hours per forty hours worked. Regular full-time and regular part-time employees who work less than 40 hours per week will receive personal leave on a prorated basis.*

~~The Tribe grants 10 days (80 hours) of personal leave to each employee per year. For the purposes of personal leave policy only, the year is from December 1 through the following November 30. Employees already hired as of the effective date of this policy will receive, on the effective date, an amount of personal leave according to a formula determined by the Ogema. Newly hired employees will receive, on their date of hire, an amount of personal leave that represents the unexpired portion of the year through the next~~

November 30. For example, an employee hired with 115 calendar days remaining until November 30 will receive 115/365 of a year's personal leave.

Each December 1 (or nearest pay period following), all unused personal leave will be paid to each employee at fifty percent (50%) of the employee's current rate of pay. On the same day, each employee will receive a new balance of 10 days (80 hours) of personal leave.

Personal leave is not transferable to another employee. *Unused personal leave may be carried over to the next year up to 40 hours, all personal leave accumulated in excess of 40 hours expires at the end of the year. Upon separation from employment, whether by termination, lay-off, resignation or other method, personal leave shall not be paid out to the employee.*

Unused personal leave is only paid to employees who work for the Tribe through November 30. Employees who are separated for any reason will not be paid for any balance of personal leave not used.

## **6.10 MATERNITY LEAVE**

Administration – The Tribe recognizes that Tribal member children are the Tribe's most precious assets and that the promotion of strong families is critical. With this recognition, the Tribe has adopted the following policies regarding maternity leave. The Tribe may grant maternity leave to regular full-time employees who have successfully completed the probationary period and who are pregnant. Maternity leave may also be available to male employees needing time off to assist a pregnant spouse.

- a. The employee must submit a written request to the department head at least 30 days prior to the beginning of the leave, except in case of emergency where a leave may commence immediately.
- b. A doctor's statement attesting to the employee's pregnant condition must accompany a request for maternity leave. In the case of male employees, a doctor's statement of spouse's pregnant condition and need for assistance must accompany a request for maternity leave. A request for maternity leave must indicate the number of days/weeks the doctor anticipates the employee will be required to be off work.
- c. The employee may elect to use accumulated sick leave and/or annual leave during a maternity leave. Any excess maternity leave shall be in the nature of an unpaid leave of absence.
- d. Seniority shall not accrue during maternity leave.
- e. Fringe benefits shall be retained, but are not accrued or paid for maternity leave, except for exceptional circumstance.
- f. An employee returning from maternity leave shall be entitled to the same or equivalent position at the same rate of pay when she/he left. Employees must notify the ~~Ogema~~ or personnel director supervisor, Tribal Manager and Human Resource Department at least ten working days prior to returning from maternity leave. In the case of female employees, such notification must include a physician's statement indicating that she is physically and medically able to return to duties as an employee.
- g. Employees must return from maternity leave within a reasonable period of time, not to exceed eight (8) weeks, following termination of the pregnancy unless there are extenuating circumstances of which the ~~Ogema~~ or Human Resource Director are notified. Additional extensions of the maternity leave may be granted only with the approval of the ~~Ogema~~ Tribal Manager. A statement from the attending physician should substantiate requests for maternity leave of any length.
- h. *Employees must notify the Human Resource Department 24 hours prior to the expected return to work date that they intend to return to work. The Human Resource Department shall notify the supervisor of the employees expected return to work date, that a request for extension has been made, or that the employee does not intend to return to work.*

## **6.11 BEREAVEMENT LEAVE**

Bereavement Leave – An automatic three days leave with pay will be granted in the event of death in the employee's immediate family. The term "immediate family" for any purpose shall be defined as follows:

Spouse	Father-in-law
Father	Mother-in-law
Mother	Sister-in-law
Sister	Brother-in-law

Brother  
Children  
Foster Children

Step Children  
Grand Parents  
Grand Children

In the event the three days leave granted does not allow sufficient time for attending a funeral, annual leave may be granted. If the employee has no annual leave accrued, a leave of absence may be granted upon approval from the *Ogema Tribal Manager*.

#### **6.12 LEAVES OF ABSENCE GENERALLY**

All requests for leaves of absence must be in writing and approved by the *Ogema Tribal Manager*. Leaves of absence shall be without pay and shall not exceed 30 days. When a leave of absence is granted, the employee agrees to return to work immediately at the expiration of the leave period. Failure to return to work shall be considered a resignation from employment.

An employee may request an extension of a leave of absence. This request must be in writing and approved by the *Ogema Tribal Ogema*.

No sick leave or annual leave shall accrue to an employee during a leave of absence. Time spent on leave of absence shall not be considered a break in service; however, such time shall not accrue toward seniority.

#### **6.13 MILITARY LEAVE**

The Tribe shall observe the provisions of the federal regulations regarding reemployment rights and leaves of absence in accordance with the Veteran's Reemployment Rights Statute Part III, Chapter 43 of Title 38, U.S. Code as amended. Any employee filling other than a temporary position, who is leaving employment for the purpose of military service, training or examination is eligible for reemployment rights. A copy of the official military orders should accompany any request for military leave including annual active duty training with Reserve or National Guard components of the U.S. Armed Forces.

#### **6.14 JURY DUTY**

An employee who is called for jury duty or is subpoenaed shall notify ~~the Ogema~~ *their supervisor* immediately upon receipt of such notice. If an employee serves on jury duty during normally scheduled work days, the Tribe shall provide payment of the difference of witness fees or jury duty pay, excluding travel expenses, and the employees regular salary upon presentation of a written statement of jury earnings by proper Court officials.

#### **6.15 EDUCATIONAL LEAVE**

The Little River Band strongly encourages and recommends the pursuit of continued education. Full-time regular and full-time probationary employees enrolled in higher education classes during the course of normal working hours shall be allowed to attend classes for up to eight hours per week, including travel time, with pay. However, prior to enrolling in higher education coursework, the employee must first consult with their supervisor regarding course selection. Both the supervisor and the *Ogema Tribal Manager* must approve the class(es) selected by the employee that are to be taken during normal working hours.

Employees who receive educational leave must submit verification of enrollment to the *Ogema Tribal Manager*. This documentation will be placed in the employee's personnel file. Employees must also verify successful completion of coursework in order to qualify for any additional educational leave in the future.

Educational leave for employees will not be permitted to comprise the quantity or quality of work they perform for the Tribe or to unreasonably burden other employees.

#### **6.16 — EDUCATIONAL GRANTS**

~~Subject to the availability of sufficient funds, the Tribe will offer educational grants to employees to expand educational opportunities, enhance quality employee performance, and to assist employees in achieving required certifications for advancement.~~

~~These grants will be made available to all regular, full-time employees who have passed their one-year~~

anniversary date of hire. The grants will be provided for approved vocational education, undergraduate and graduate level course work. Employees will be notified of the amount of funding available, or the number of educational grants, available

To apply, the employee must:

- ~~\_\_\_\_\_ a. Obtain the appropriate application/payback agreement from Human Resource Department;~~
- ~~\_\_\_\_\_ b. Complete the application and payback agreement;~~
- ~~\_\_\_\_\_ c. Review and discuss the application and payback agreement with his/her supervisor and the Ogema.~~

~~Upon completion of the application and payback agreement, the supervisor will submit the same to the Ogema for final approval.~~

Educational grants will be awarded as available for no more than two classes per semester/term per applicant. The grant will pay for tuition and books only; the applicant must pay all other fees. Applicants are expected to also apply for other scholarships/grants for which the applicant qualifies.

If the applicant fails to successfully complete the class with a grade of "C" (2.0) or better for vocational or undergraduate course work or a grade of "B" (3.0) or better for graduate course work, or otherwise fails to comply with the provisions for the payback agreement, the grantee will be required to repay the amount of the educational grant.

~~A copy of the applicant's grade transcript shall be submitted to the employee's supervisor at the end to the term.~~

#### **6.17 ABSENCE WITHOUT LEAVE**

Failure by an employee to notify the supervisor ~~or the Ogema~~ in the event of absence will be considered as an unpaid absence without leave.

#### **6.18. Family Medical Leave.**

*The Family Medical Leave Act is a federal employment law which protects eligible employees during time taken off, with or without pay, for limited specified reasons. Employees are encouraged to review the FMLA information posters in the Human Resource Department for specific eligibility requirements. In general, if an employee is taking time off for a serious medical condition for themselves, children or family, or if they are taking time off as a result of the birth, adoption or placement of a foster child, the FMLA will apply. In general, an employee covered by the FMLA will have health benefits continued for up to a total of 12 weeks per 12 month period, as well as job position protection during the covered time off.*

*An employee must present notice of time off to the Human Resource Department –*

- a. 30 days prior to the scheduled time off; or*
- b. as soon after an emergency or unscheduled time off as possible.*

*The Human Resource Department shall notify the employee of applicability of FMLA to the leave that will be taken, has been taken, or is currently on-going, and that the employee is required to provide documentation within 5 days of receiving the notice. The Tribe considers all leave of absence, whether on personal, annual or unpaid leave, in excess of three days to be FMLA leave and shall apply FMLA time to the leave of absence calculated at the beginning of the leave of absence unless determined inapplicable by the submission of appropriate documentation by the employee.*

### **CHAPTER VII. SEPARATIONS FROM EMPLOYMENT & DISCIPLINARY ACTIONS**

#### **7.1 LAYOFFS**

It is the policy of the Tribe to lay off employees only as a last resort. Every effort will be made to retain employees and to avoid potential lay-offs. At the discretion of the ~~Ogema Tribal Manager~~, an employee who is slated to be laid-off may be transferred to another position, within the Tribe for which they are deemed qualified, if such positions are available.

Employees will be given a minimum of two (2) weeks notice of lay-off.

The decision to lay-off an employee will be made by the ~~Ogema~~ Tribal Manager. The retention of employees in classes of positions affected by lay-off shall be based upon a systematic consideration of type of appointment, seniority, and relative efficiency of the employee(s) *and related to the necessary functions of the Tribe to serve the membership and maintain the Tribe's governmental activities.*

The order of lay-off shall be as follows:

- a. Temporary employees.
- b. Probationary part-time.
- c. Probationary full-time.
- d. Regular part-time.
- e. Regular full-time hourly employees.
- f. Regular salaried employees.

Within these six categories, management shall determine the order of lay-off by job performance as measured by the latest written Job Performance Appraisal. Lay-off determinations shall only use seniority in cases of equivalent job performance.

## **7.2 RESIGNATIONS**

Resignations are accepted upon submission in writing to the supervisor.

In order to resign in good standing the Tribe expects employees to:

- a. Notify their supervisor at least two (2) weeks in advance of the date they intend to leave, and
- b. Maintain satisfactory job performance appraisals.

In order to be considered for future re-hire, former employees must have resigned in good standing during their previous employment with the Tribe.

## **7.3 TERMINATIONS**

The Tribe will strive to treat all employees fairly with regard to terminations. In general, employees will only be terminated for cause; however, the Tribe is an at-will employer and employees may be discharged as such without cause.

Employees who are terminated will be compensated for accrued annual leave at their current rate of pay.

Cause for termination includes, but is not limited to:

- a. Failure of an employee to carry out the duties and obligations imposed by this Personnel Manual, Tribal laws and regulations, and program rules and regulations.
- b. Intentional violation of work rules.
- c. Unsatisfactory job performance appraisal.
- d. Gross insubordination.
- e. Theft of Tribal funds or Tribal property.

## **7.4 PROCEDURE FOR DISMISSAL AND SUSPENSION**

An employee's supervisor may recommend dismissal to the ~~Ogema~~ Tribal Manager. When the ~~Ogema~~ Tribal Manager considers it necessary to dismiss or suspend an employee, the reason for such action shall be clearly stated and the following procedures shall be observed:

- a. The employee shall be notified in writing by the supervisor and Human Resource Department giving specific reasons for the action, advising of the right to appeal and detailing the appeal procedure.
- b. Prior or concurrent written notice shall be given to the ~~Ogema~~ Tribal Manager.
- c. When dismissal is deemed necessary, the grievance procedures must be observed and documented. The grievance procedure does not apply to probationary employees, except in cases of alleged discrimination.

## **7.5 DISCIPLINARY ACTION**

**Causes** – Employees who violate the work rules listed in these policies are subject to disciplinary action.

**Notice:** In every case of suspension, demotion or dismissal the employee shall be notified in writing. A copy of this notification, which shall include the disciplinary action, the reason for it and its duration, shall be filed in the employee's personnel records for an appropriate length of time.

**Application:** The seriousness of the infraction, nature of misconduct, employee motivation and awareness of rules will be considered in disciplinary actions.

### *Types of Disciplinary Action*

- a. **Oral Reprimand.** This is an action taken by a supervisor in which the supervisor tells an employee about an action or behavior of the employee which is objectionable or should be corrected.
- b. **Written Reprimand.**
  1. A written reprimand is a form of discipline in which the employee's supervisor describes in detail the behavior to be corrected, and will give direct and concrete orders for the future and will point out the consequences of repeating the actions which brought about a written reprimand.
  2. The written reprimand must be presented to the employee.
- c. **Disciplinary Suspension.**
  1. This is a disciplinary action taken by the supervisor and Human Resource Department with approval of the ~~Ogema~~ *Tribal Manager*, which removes an employee from employment in their department for a definite period of time.
  2. This action does not require the employee's consent to place the employee on leave without pay during a disciplinary suspension.
  3. In most cases, the employee does not accrue salary; annual leave credit; or personal leave credit during the time the employee is suspended.
  4. At the end of the suspension, the employee shall be returned to the payroll in the same department, classification and salary as when he was suspended.
  5. Suspensions without pay must be written and must be presented to the employee.
  6. Extreme circumstances may warrant immediate dismissal.
- d. **Demotion**
  1. This is an action taken by the ~~Ogema~~ *Tribal Manager* upon the recommendation of the employee's supervisor, which reduces an employee's classification to a classification with a lower maximum salary.
  2. The employee's duties and responsibilities must be reduced to those of the lower classification.
  3. The reasons for the demotion must be given.
  4. Demotions must be in writing and must be presented to the employee.

## **7.6 PERSONNEL RECORDS AND TRANSACTIONS**

**Transaction:** Records will be maintained in the Human Resource Department of all official personnel transactions including hiring, promotion, suspensions, dismissals and resignations of all employees.

**Responsibility:** Supervisors shall maintain and verify time and attendance. Employee payroll records shall be maintained and kept on file for all employees in the Accounting Department.

**Confidentiality:** Employee personnel files and payroll records are confidential and remain under the control of the Human Resource Department and Accounting Department respectfully. Employees may at any time submit a written request to the Human Resource Department for a copy of their personnel file, which will then be provided within a reasonable period of time.

## **CHAPTER VIII. GRIEVANCE PROCEDURE**

### **8.1 STATEMENT OF PURPOSE**

The Tribe will do its utmost to insure that working conditions are as pleasant as possible and that each



employee receives equal, courteous and fair treatment.

The Tribe seeks to secure, at the earliest level possible, fair and timely solutions to complaints or grievances of its employees.

This procedure shall be kept as informal and confidential as may be appropriate.

## **8.2 GRIEVANCE DEFINED**

A grievance is a dispute, claim or complaint arising under the terms of this policy and filed by an employee. Grievances are limited to matters of violation, interpretation or unfair applications of this policy. The employee filing a grievance must show how the grievance directly affects him/her. To maintain an effective and orderly procedure it is necessary to follow the grievance procedure as stated below. Failure to do so will forfeit the grievance.

## **8.3 GRIEVANCE PROCEDURE – STEPS**

- a. The employee shall, within ten working days of the date of the grievance, or within ten working days of the date the employee could reasonably be expected to have knowledge of the grievance, present the grievance in written form to the supervisor of the person who the grievance is against, with a copy filed concurrently with the *Ogema Tribal Manager* and Human Resources Director. The person to whom the grievance was presented shall reply in writing to the employee within ten working days with an answer or a remedy, with a copy filed concurrently with the *Ogema Tribal Manager* and Human Resources Director.
- b. Should the answer or remedy granted be unacceptable to the aggrieved employee, the employee may choose to continue the grievance process step by step through higher levels of supervision, up to the *Ogema Tribal Manager*. In each step, the approached party shall be allowed ten days to reply in writing with a remedy or an answer.

## **~~8.4 REPRESENTATION~~**

~~The employee may elect to have legal counsel, at his/her own expense, during the grievance process. The employee shall be granted necessary and reasonable paid absence from work for scheduled grievance adjustment meetings.~~

## **8.5 FREEDOM FROM REPRISAL**

Employees shall be free to use this procedure without restraint, interference, coercion, discrimination or reprisal. An employee, whether acting in an official capacity for the Tribe or on any other basis, shall not interfere with or attempt to interfere with another employee's exercise of his/her rights under this procedure.

## **8.6 SETTLEMENT OF GRIEVANCE**

Any and all grievances resolved at any step of the grievance procedure as contained in this policy will not be final and binding on the Tribe, the employee and any and all employees involved in the particular grievance until agreed to by the aggrieved party or decided finally by the *Ogema Tribal Manager*.

## **8.7 PROCESSING GRIEVANCES**

Grievances shall be processed from one step to the next within the time limit prescribed in each of the steps. Any grievance upon which a disposition is not made by the supervisor within the time limits prescribed, or any extension which may be agreed to, may be referred to the next step in the grievance procedure, the time limit to run from the date when time of disposition expired. Any grievance not carried to the next step by the employee within the prescribed time limits or such extension which may be agreed to, shall be automatically closed upon the basis of the last disposition. A grievance, once submitted, shall not be altered. An employee may withdraw his grievance at any time without prejudice.

## **8.8 Ogema Discretion to Review**

*At the Ogema's sole discretion, a review may be conducted of grievances and/or disciplinary action with the Tribal Manager. Such review may result in overturning or modifying the disciplinary action. No employee shall have a right to request such review, and no appeal of the determination to not review shall be granted. The Ogema shall review all determinations to terminate an employee.*

## CHAPTER IX. CONDITIONS OF EMPLOYMENT

### 9.1 CODE OF ETHICS AND WORK RULES

The orderly and efficient operation of the Tribal government requires that certain work rules be established. Work rules covering personal standards of conduct as well as operating procedures are necessary to protect the health and safety of all employees, maintain uninterrupted service and to protect the goodwill and property of the Tribe.

All employees are expected to conform to reasonable work rules and ethical standards, exemplified by the following:

- a. A commitment to the Tribe's goals, its leadership, and management is required of all employees.
- b. Employees are expected to present a positive image as tribal government professionals at all times in the forms of dress, communication, and action. Employees shall deal with the public in a courteous and professional manner.
- c. Employees shall follow all safety regulations to include the wearing of safety articles and the using of protective equipment. Employees shall immediately report accidents or injury to their supervisor.
- d. Employees shall be responsible for and shall not misuse Tribal records, or other materials in their care, custody and control. Tribal property, records, or other materials shall not be removed from the premises without written permission of the *Ogema Tribal Manager*.
- e. An employee shall immediately report to his or her supervisor if he or she is unable to work and the reason for it.
- f. Employees shall notify ~~their supervisor~~ *the Human Resource Department* whenever there is a change in their personal data.
- g. Employees shall not restrict or interrupt work or interfere with the work of others.
- h. Employees shall report for and remain at work only in fit physical condition.
- i. Employees shall not neglect their duties or responsibilities or refuse to perform assigned work.
- j. Employees shall not engage in improper conduct, fight, gamble, or use abusive language while on duty.
- k. Employees shall not possess or use unauthorized firearms, weapons, mood altering drugs or intoxicating beverages during working hours, nor shall employees possess these items while in Tribal facilities.
- l. Employees shall not falsify records, reports, or claims of illness or injury.
- m. Employees shall not sign or record another employee's time card or work sheet.
- n. No employee may accept favors or gifts of monetary value from vendors, contractors, or others who have or propose to have business dealings with the Tribe.
- o. Any efforts by outside or internal parties to exchange money, gifts, or similar considerations, for favor in the award of contracts, purchase orders or general services must be reported immediately to the *Ogema Tribal Manager*.
- p. No employee will use his or her position with the Tribe for personal gain. This restriction includes the use of Tribal authority, information gained through official duties, records, access to Tribal equipment, etc.
- q. Employees are prohibited from divulging any confidential or potentially harmful information, concerning fellow employees, the Tribe, or clients of the Tribe, acquired by virtue of their positions or association with the Tribe.
- r. Departmental, professional, technical, and other ethical standards over and above these outlined herein, and not in conflict with this manual, shall also be adhered to.

The above work rules and ethical standards shall be applicable to all employees. These rules are not intended to be all-inclusive and the Tribal Council shall, when it seems appropriate, establish additional rules to insure the effective operation of the Tribal government.

Employees who violate any of the above work rules or ethical standards shall be subject to disciplinary action up to and including dismissal.

### 9.2 SAFETY

Establishment and maintenance of a safe work environment is the shared responsibility of the Tribe and employees from all levels of the organization. The Tribe will attempt to do everything within its control to assure a safe environment and compliance with federal and tribal safety regulations. Employees are expected to obey safety rules and to exercise caution in all their work activities. They are asked to immediately report any unsafe conditions or practices to their supervisor. Not only supervisors, but also employees at all levels of the tribal organization, are expected to correct unsafe conditions as promptly as possible.

All accidents that result in injury must be reported to the appropriate supervisor, regardless of how insignificant the injury may appear. Such reports are necessary to comply with laws and initiate insurance procedures.

### **9.3 SECURITY INSPECTIONS**

The Tribe wishes to maintain a work environment that is free of illegal drugs, alcohol, firearms, explosives, or other improper materials. Desks, lockers, and other storage devices that may be provided for the convenience of employees remain the sole property of the Tribe. Accordingly, any agent or representative of the Tribe may inspect them, as well as any articles found within them, at any time, with or without prior notice.

### **9.4 USE OF PHONE AND MAIL SYSTEMS**

Employees must reimburse the Tribe for any charges resulting from their personal use of the telephone. Employees must identify personal calls made and provide ~~the Ogema~~ or their supervisors with a list of any personal calls made and make arrangements to pay the amount owed.

Employees must use the phone in a professional and business like manner.

The use of employer-paid postage for personal correspondence is not permitted.

### **9.5 USE OF TRIBAL EQUIPMENT AND VEHICLES**

Employees are expected to exercise care, perform required maintenance, and follow operating instructions, safety standards, and guidelines when using Tribal equipment and vehicles.

Employees are expected to notify a supervisor if any equipment, machines, tools, or vehicles appear to be damaged, defective, or in need of repair. Prompt reporting of damages, defects, and the need for repair could prevent deterioration of equipment and possible injury to employees or others.

### **9.6 CONFLICTS OF INTEREST**

Employees have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest. This policy establishes only the framework within which the employer wishes tribal business and activities to operate. The purpose of these guidelines is to provide general direction so that employees can seek further clarification on issues related to the subject of acceptable standards of operation.

Transactions with outside firms must be conducted within a framework established and controlled by the administrative level of the Tribal organization. Business dealings with outside firms should not result in unusual gains for those firms. Unusual gains refer to bribes, product bonuses, special fringe benefits, unusual price breaks, and other windfalls designed to ultimately benefit the employer, an employee, or both. Promotional plans that could be interpreted to involve gain require specific administrative approval.

An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or for a relative as a result of this organization's business dealings. For the 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 "presumption of guilt" is created by the mere existence of a relationship with outside firms. However, if an employee has any influence on transactions involving purchases, contracts, or leases, it is imperative that he or she disclose to their supervisor ~~or the Ogema~~ and the Tribal Manager as soon as possible the existence of any actual or potential conflict of interest so that safeguards can be established that protect all

parties.

Personal gain may result not only in cases where an employee or relative has a significant ownership interest in a firm with which the Tribe does business but also when an employee or relative receives any kickback, bribe, substantial gift, or special consideration as a result of any transaction or business dealings involving the organization.

#### **9.7 COMPLAINTS AGAINST EMPLOYEES**

The Tribe recognizes the need for proper resolution of complaints made against employees by non-employees. The following procedure must be followed in the event of such a complaint.

It is the responsibility of all employees hearing or receiving a complaint to inform the complaining party of the proper procedure for resolution of such complaints.

All complaints against a employee must be referred to the employee's supervisor.

Complaints against employees must be provided in written form to the supervisor.

The supervisor will review the incidents or actions in question. The supervisor will gather whatever information or evidence necessary to properly evaluate the complaint.

The supervisor will make a decision in writing to both the employee and the individual who made the complaint. The decision may clear the employee of wrongdoing, require changes in the employee's conduct, or result in disciplinary actions as defined in these policies.

If the complainant is not satisfied with the decision of the supervisor he or she may bring the complaint to the *Ogema Tribal Manager* for review. The *Ogema Tribal Manager* will review the complaint and the supervisor's decision. The *Ogema Tribal Manager* may uphold or modify the decision and action taken by the supervisor. The decision of the *Ogema Tribal Manager* shall be final.

A copy of the complaint and the resulting action(s) must be forwarded to the appropriate office for inclusion in the employee's personnel file.

#### **9.8 OUTSIDE EMPLOYMENT**

Supplementary employment is not encouraged but is permitted under proper conditions. No employee may hold a full-time job or its equivalent in addition to his or her regular employment with the Tribe. Any supplementary part-time employment shall be in work situations that in no way relate to the employee's duties with the Tribe and in no way would prevent the satisfactory fulfillment of their duties.

The employee must first secure written approval from both their supervisor and the *Ogema Tribal Manager* prior to engaging in any supplementary employment. Violations of this policy may result in disciplinary action.

#### **9.9 SOLICITATION OF FUNDS**

No employees are allowed to solicit funds on behalf of the Tribe without prior written approval from the *Ogema Tribal Manager*. This permission will only be granted for projects and/or programs that were previously approved by the Tribal Council.

#### **9.10 POLITICAL ACTIVITY**

Every employee shall have the right to freely express opinions as a citizen and to vote. Employees are encouraged to participate in political activities at any level of government (Tribal, local, state, etc.) that are not otherwise prohibited by law and conform to the following conditions and restrictions:

- a. No employee may engage in political activities during normal working hours.
- b. Political activities may not infringe on the employee's job responsibilities.
- c. No employee may use his or her position in support of or in opposition to any political campaign that compromises Tribal interests.

- d. Employees engaged in political activities may not charge any costs incurred in the course of outside political activities to the Tribe.
- e. Political activities based on self-interest in the services and/or programs of the Tribe are strictly prohibited.

## **9.11 DRUG TESTING POLICY**

### *Purpose.*

The purpose of this Chapter is to implement the Tribe's Plan For a Drug-Free Work Place, as mandated by section 503 of P.L. 100-71, and to enable the Tribe to better carry out its responsibilities to its members through identification of and assistance to those employees, if any, whose use of illegal drugs on or off-duty impairs and impedes their performance of their job responsibilities.

The Tribe may test for the following drugs:

- a. Marijuana
- b. Cocaine
- c. Amphetamines [speed, diet pills, Benzedrine, declobese]
- d. Opiates [codeine, morphine, methadone, diladid, heroin]
- e. Phencyclidine [PCP]
- f. Barbiturates [Phenobarbital, secobarbital, amobarbital, pentobarbital]

### *Sensitive Positions for Which Testing is Mandated.*

Any person employed by the Tribe as an officer of the law, which empowers said employee to carry a sidearm and be certified as a law enforcement officer, shall, as a condition of selection for such position, and as a condition for continued employment, be subject to mandatory testing for the presence of the drugs listed in this section. For those persons currently employed, such testing may occur at least twice each year, upon a schedule designated by the Tribal Council.

### *Random Testing.*

Any person employed by the Little River Band of Ottawa Indians may be tested at random for utilization of the drugs identified in this section.

- a. Notification. An individual selected for random testing, and that individual's supervisor, shall be notified the same day that the test is scheduled within two (2) hours of the scheduled testing. It shall be made clear to the employee that the employee is under no suspicion of taking illegal drugs and that the employee's name was selected randomly.
- b. Deferral of Testing. An employee may request deferral of testing of his/her supervisor, which shall be granted if the employee demonstrates that:
  - 1. The employee is on leave status (sick, annual, personal, administrative, or leave without pay); or
  - 2. The employee is on travel status away from the job site, or is about to embark on travel scheduled prior to the testing notification.
  - 3. Retest shall be made of an employee whose random test was deferred within the following 60 days.
- c. Selection for Testing. The selection of tribal employees for random testing will be made by three (3) tribal representatives, who are present at the drawing of employee names for testing.

### *Reasonable Suspicion Testing; Grounds.*

Drug testing of any employee may be required when one or more of the following exists:

- a. Direct observation of drug use or possession, and/or the physical symptoms of being under the influence of a drug are present;
- b. The employee exhibits a pattern of abnormal conduct or erratic behavior;
- c. The employee is arrested or convicted of a drug-related offense, or the employee is identified as the focus of a criminal investigation into illegal drug possession, use or trafficking;
- d. Information is provided either by reliable and credible sources, or independently corroborated, of employee drug use; or
- e. Newly discovered evidence that the employee has tampered with a previous drug test is received.

*Procedures for Reasonable Suspicion Testing.*

If an employee is suspected of using illegal drugs, the appropriate supervisor shall gather all information, facts and circumstances leading to and supporting this suspicion, and shall report the material gathered to the ~~Ogema~~ Tribal Manager and Health Director in writing. The report shall detail the circumstances, including the applicable dates and times of reported drug-related incidents, reliable and/or credible sources of information, and any other supporting information.

The ~~Ogema~~ Tribal Manager and Health Director, upon review of the information provided, shall determine whether reasonable suspicion exists for the employee's use of illegal drugs, and, if the circumstances so warrant, order the employee to submit to a drug test.

*General Rules for Conducting Drug Tests.*

The Tribe shall follow the Guidelines for Federal Workplace Testing, established by the U.S. Department of Health and Human Services and published at 53 Fed. Reg. 11959 (Apr. 11, 1988), and as they may be amended, and shall ensure that tests are conducted as follows.

- a. The tests shall be conducted by professionally trained collection personnel, who are not employees of the Tribe;
- b. Analysis of specimens shall be undertaken by a laboratory licensed by the appropriate Tribal, federal and state agencies; and
- c. Test results are treated as strictly confidential matters.

*Privacy Ensured During Drug Testing.*

An employee subject to testing shall be permitted to provide urine specimens in private, in a restroom stall or other similar enclosure, so that the employee is not observed while providing the sample. Collection site personnel of the same gender, however, may observe the individual provide the urine specimen when such personnel have reason to believe that a particular employee may alter or substitute the specimen provided.

Reason to so believe exists when:

- a. The employee is being tested under Sec. 207.5, related to reasonable suspicion testing;
- b. The employee has previously been found by the Tribe to be an illegal drug user;
- c. The employee has previously tampered with a sample;
- d. Facts and circumstances suggest that the employee is under the influence of drugs at the time of the test;
- e. The employee has equipment or implements capable of tampering with or altering the urine sample;
- f. The specimen has a temperature outside the range of 32.5—37.7 degrees Centigrade (90.5—99.8 degrees Fahrenheit); or
- g. The specimen shows signs of contaminants.

*Failure to Appear for Testing.*

Failure to appear for testing without a deferral, as provided for in this section, will be considered refusal to participate in testing, and will subject the employee to disciplinary action, including dismissal. If an employee fails to appear at the collection site at the assigned time, the collector shall so advise the Health Director immediately by telephone. The Health Director shall so advise the employee's supervisor, who shall take disciplinary action, if warranted by the circumstances.

*Opportunity to Justify a Positive Test Result.*

When a confirmed positive test result is received from the testing laboratory, the employee shall be notified in writing, and provided the opportunity to justify the result by submitting evidence that the result could have been caused by the use of a legally prescribed medication. The Health Director or a designated Drug Program Medical Review Officer shall evaluate any such evidence.

*Finding of Drug Use and Disciplinary Consequences.*

An employee who voluntarily admits the use of an illegal drug, or provides a sample which is verified as positive for the presence of an illegal drug, shall not be subject to disciplinary action when the employee obtains counseling or rehabilitation and thereafter refrains from using illegal drugs. The Tribe's Health Department or Substance Abuse Program shall make determination of the appropriate

rehabilitation/counseling plan. The employee may contest the recommended plan before the *Ogema Tribal Manager*, but must abide by the terms of the plan approved by the *Ogema Tribal Manager* for his or her rehabilitation.

- a. Probationary Period. An employee who engages in rehabilitation or counseling will be placed on probation for a period of six (6) months and, as a condition of continued employment, shall refrain from using any illegal drug; compliance with this section shall be verified with drug testing as provided in Sec. 207.4. The employee's supervisor shall be notified of the probationary status.
- b. Disciplinary Actions. An employee who fails to successfully complete the probationary period, or who does not agree to engage in the mandated counseling and/or rehabilitation after drug use has been found, is subject to disciplinary action under Chapter 7.

The Health Director shall notify the supervisor of the employee's actions.

*Refusal to Take Drug Test When Required.*

An employee who refuses to be tested when required to do so is subject to the full range of disciplinary actions under Chapter 7, up to and including dismissal. Attempts to alter or substitute a specimen provided is deemed a refusal to take a drug test when required. The Health Director shall notify the employee's supervisor of the refusal.

*Mandatory Dismissal.*

An employee shall be subject to dismissal immediately under the following conditions.

- a. The employee's conditions for employment require that the employee be drug free at all times, whether or not the consumption occurs outside working hours;
- b. The employee is found to use illegal drug(s) after a first finding of such use; or
- c. The employee's use of an illegal drug poses an immediate and recognizable danger to other employees or the safe operation of the program in which the employee is working.

*Employee Assistance Plan Committee.*

The development of counseling and rehabilitation programs for employees shall be conducted by an Employee Assistance Plan Committee, which may be composed of the Health Department Director, the Physician Assistant, the Medical Program Director, the Psychologist, and such other persons deemed appropriate by the Ogema. The Committee shall also provide recommendations from time to time to the Ogema concerning the operation and improvement of the Tribe's "Plan for a Drug-Free Workplace," and shall supervise the drawing of employee names for random testing selection.

In no event shall the employee's records relating to this Section be provided to any other agency or department; however, the statistical, non-identifiable results of the Tribe's "Plan for a Drug-Free Workplace" may be provided to those agencies as demonstration of the Tribe's compliance with the applicable federal law and contractual requirements. The statistical information to which this paragraph pertains is described in the following paragraph.

*Statistical Information That the Tribe Must Maintain.*

The Tribe, pursuant to federal law and regulation, of the following; must maintain anonymous statistical information;

- a. Random tests, reasonable suspicion tests, follow-up tests, or applicant for employment tests administered;
- b. Verified positive test results;
- c. Voluntary drug counseling referrals;
- d. Involuntary drug counseling referrals;
- e. Terminations or denial of employment offers resulting from refusal to submit to testing;
- f. Terminations or denial of employment offers resulting from alterations of specimens;
- g. Terminations or denial of employment offers resulting from failure to complete a drug abuse counseling program; and
- h. Number of employees who successfully complete a drug abuse-counseling program.

The Health Director shall maintain data supporting the type of information listed in this section.

*Employee Access to Records.*

Any employee who is the subject of a drug test shall, upon written request *to the Human Resource Department*, have access to any records relating to his/her drug test.



## Appendix A - Competitive Wage Schedule

Perf Level	Position/Job Title	Wage Range	
6	Chief Financial Officer	50,000.00	75,000.00
6	Tribal Court Administrator	35,000.00	53,000.00
6	Executive Director – Operations	62,000.00	93,000.00
6	Executive Director – Professional Development & Human Resources	50,000.00	75,000.00
6	Executive Director/Gaming Commission	50,000.00	75,000.00
6	Tribal Attorney	67,200.00	100,000.00
5	Clinic Operations Director	30,000.00	45,000.00
5	Community & Economic Development Director	31,000.00	46,000.00
5	Controller	39,000.00	59,000.00
5	Director – Grant Writing Department	35,000.00	52,000.00
5	Grant Management Administrator	39,000.00	58,000.00
5	Director of Education	42,500.00	64,000.00
5	Director of Natural Resources	35,000.00	54,000.00
5	Executive Director – Housing Comm.	34,500.00	52,000.00
5	Family Services Director	36,000.00	54,000.00
5	Health Services Director	40,000.00	60,500.00
5	Human Resource Director	35,000.00	52,000.00
5	Public Safety Director	32,000.00	48,000.00
5	Tribal Council Administrative Manager	31,000.00	46,000.00
4	Admin. Assistant/Tribal Attorney (Based on Para-Legal)	33,000.00	49,500.00
4	Administrative Manager	19,500.00	30,000.00
4	Background Investigator – Gaming Comm.	34,000.00	50,500.00
4	Billing & Contract Health	19,000.00	28,500.00
4	Bookkeeper & Assistant to Controller	23,000.00	35,000.00
4	Community Health Nurse – Diabetic Educator	28,000.00	42,000.00
4	Compliance Officer/Gaming Commission	34,000.00	50,500.00
4	Education Program Coordinator	25,000.00	37,000.00
4	Food Commodities & Distribution Coordinator	20,000.00	30,000.00
4	Language Coordinator – Education	35,000.00	52,000.00
4	Maintenance Supervisor	15,500.00	23,000.00
4	Tribal Police Officer	25,500.00	38,000.00
4	Tribal Registrar	24,000.00	35,000.00
3	Indian Child Welfare & Prevention Worker	28,000.00	42,000.00
3	Community Health Representative	20,000.00	30,000.00
3	Community Planner/Organizer – Economic Development	19,500.00	29,000.00
3	Court Clerk/Tribal Courts	19,500.00	32,000.00
3	Education Youth Worker	18,000.00	27,000.00
3	Elder's Community Health Representative	20,000.00	30,000.00
3	Fisheries Biologist	30,000.00	45,000.00
3	Peacemaker	22,500.00	34,000.00
3	Secretary	14,000.00	22,000.00
3	Social Service Worker/Family Services	23,500.00	35,000.00
3	Strategic Planning Coordinator	18,000.00	27,000.00
3	Tribal Council Assistant	21,500.00	32,000.00
2	Fisheries Technician	21,000.00	31,000.00
1	Support Staff (Receptionist/Interns/Summer Youth/Other Entry Level)	11,294.00	14,000.00

## **Appendix B - Performance Levels & Employee Expectations**

### **Statement of Purpose:**

The purpose of creating performance levels and employee expectations is as follows:

- a. To provide consistency throughout the organization.
- b. To create a fair and uniform system of evaluation.
- c. To provide guidance and direction to employees on an ongoing basis.

### **Scope:**

All positions throughout the government administrative offices, agencies and commissions have been established based upon:

- a. Degree of self-management.
- b. Type of responsibility.
- c. Type of professional/technical skills.
- d. Type of formal education/certifications.
- e. Years of required experience in field.

### **Level One:**

*Degree of self-management:* Supervised Position

*Type of responsibility:* Complete assigned tasks in a prescribed manner in accordance with policy, procedures and/or work instructions.

*Type of professional/technical skills:* Proficient at basic job skills.

*Type of formal education/certifications:* No educational minimum.

*Years of required experience in the field:* None.

Entry-level position. Needs little or no job experience to begin and required job skills and proficiency can be gained through on the job training. Individual is expected to demonstrate a willingness to learn, recognize importance of accuracy, demonstrate the ability to achieve results in a timely manner, demonstrate appropriate communications skills for the situation, follow directions, be consistently punctual, work well with co-workers and public, and present themselves in an appropriate manner. In addition, represent the Tribe's position if requested by Tribal Management or Tribal Council in meetings with other Tribes or with funding agencies and at all times, serve as a goodwill ambassador for the Tribe.

### **Level Two:**

*Degree of self-management:* Supervised Position.

*Type of responsibility:* Complete assigned tasks in a prescribed manner in accordance with policy, procedures and/or work instructions.

*Type of professional/technical skills:* Proficient in computers and software, filing, record keeping, correspondence, scheduling, maintaining offices inventories, customer service and telephone etiquette.

*Type of formal education/certifications:* High school diploma required, certain positions might require license or two-year degree.

*Years of required experience in the field:* Certain positions may require specialized experience up to 3 years.

In addition to the above requirements, all employees at level two are expected to demonstrate a willingness to learn, recognize the importance of accuracy, demonstrate the ability to achieve results in a timely manner, demonstrate appropriate communication skills for the situation, follow directions, be consistently punctual, work well with co-workers and the public and present themselves in an appropriate manner. In addition, represent the Tribes position if requested by Tribal Management or Tribal Council in meetings with other

Tribes or with funding agencies and at all times, serve as a goodwill ambassador for the Tribe.

**Level Three:**

*Degree of self-management:* Moderate – Must be able to work independently and use sound reasoning skills and judgment with little or no supervision.

*Type of responsibility:* Complete assigned tasks in a prescribed manner in accordance with policy, procedures and/or work instructions.

*Type of professional/technical skills:* Proficient in computers and software, organization, record keeping, cost control, managing multiple tasks, reporting, time management, quality control, written/verbal communication.

*Type of formal education/certifications:* High school diploma required, certain positions might require license or two-year degree, certification

*Years of required experience in the field:* Certain positions may require specialized experience of 3 to 5 years

In addition to the above requirements, all employees at level three are expected to demonstrate a willingness to learn, recognize the importance of accuracy, demonstrate the ability to achieve results in a timely manner, demonstrate appropriate communication skills for the situation, follow directions, be consistently punctual, work well with co-workers and the public and present themselves in an appropriate manner. In addition, represent the Tribes position if requested by Tribal Management or Tribal Council in meetings with other Tribes or with funding agencies and at all times, serve as a goodwill ambassador for the Tribe.

**Level Four:**

*Degree of self-management:* Moderate – Must be able to work independently and use sound reasoning skills and judgment with little or no supervision.

*Type of Supervision:* Must be able to supervise others, and assume complete responsibility over quality of work produced from the department.

*Type of professional/technical skills:* Strong verbal and written communication skills, must be able to organize a variety of projects, maintain all operating systems for department, delegate, manage budgets, utilize software systems for budgeting and reporting, conduct effective performance reviews, assess training needs of staff and effectively represent department director at meetings.

*Type of formal education/certifications:* High school diploma required, certain positions might require license, two-year degree, certification, or four-year degree.

*Years of experience in the field:* Certain positions may require specialized experience of 3 to 5 years.

In addition to the above requirements, all employees at level four are expected to demonstrate a willingness to learn, recognize the importance of accuracy, demonstrate the ability to achieve results in a timely manner, demonstrate appropriate communication skills for the situation, follow directions, be consistently punctual, work well with co-workers and the public and present themselves in an appropriate manner. In addition, represent the Tribes position if requested by Tribal Management or Tribal Council in meetings with other Tribes or with funding agencies and at all times, serve as a goodwill ambassador for the Tribe.

**Level Five:**

*Degree of self-management:* High – Must be able to work independently.

*Type of responsibility:* responsible for the strategic plan and achievement of department objectives. Responsible for providing leadership to department, and must demonstrate a strong understanding of how the goals of the department impact the overall direction of the Tribal government.

*Type of professional/technical skills:* Must be an expert in the following areas: collaborative decision

making, leading groups toward achievement, setting strategic directions, working with budgeting and planning processes, communicating with poise and clarity, conducting meetings that achieve results, demonstrating good business ethics, representing the organization and the goals of the Tribal government, and creatively visioning the future.

*Type of formal education/certifications:* Two-year degree required, certain positions might require licenses, certification, four-year degree or postgraduate degree.

*Years of required experience in the field:* 3-year minimum relevant experience required, certain positions may require up to 5 years specialized experience in the field.

In addition to the above requirements, all employees at level five are expected to demonstrate a willingness to learn, recognize the importance of accuracy, demonstrate the ability to achieve results in a timely manner, demonstrate appropriate communication skills for the situation, follow directions, be consistently punctual, work well with co-workers and the public and present themselves in an appropriate manner. In addition, represent the Tribes position if requested by Tribal Management or Tribal Council in meetings with other Tribes or with funding agencies and at all times, serve as a goodwill ambassador for the Tribe.

#### **Level Six:**

*Degree of self-management:* High – must be able to work independently.

*Type of responsibility:* Key management position directly responsible for providing leadership to entire organization with respect to strategic planning, goals and objectives, employment development and financial growth. Most positions report directly to the Tribal Ogema or Tribal Council.

*Type of professional/technical skills:* Must be an expert in the following areas: Leadership, developing strategic direction, communicating and working with a variety of departments and people to accomplish organization-wide results, speaking in front of groups, providing guidance to department directions, and working with Tribal Council as well as the general public.

*Type of formal education/certifications:* Four-year degree required, certain positions might require licenses, certification or postgraduate degree.

*Years of required experience in the field:* 5-year minimum relevant experience required, certain positions may require up to 10 years of specialized experience in the field.

In addition to the above requirements, all employees at level six are expected to demonstrate a willingness to learn, recognize the importance of accuracy, demonstrate the ability to achieve results in a timely manner, demonstrate appropriate communication skills for the situation, follow directions, be consistently punctual, work well with co-workers and the public and present themselves in an appropriate manner. In addition, represent the Tribes position if requested by Tribal Management or Tribal Council in meetings with other Tribes or with funding agencies and at all times, serve as a goodwill ambassador for the Tribe.