

NORTHERN CHEYENNE TRIBE

PERSONNEL MANUAL

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SECTION 1 – APPLICABILITY AND ADMINISTRATION

I. Applicability

All Tribal government employees are subject to the provisions of this Personnel Manual.

These policies do not apply to Tribal enterprises and chartered entities (such as the Northern Cheyenne Development Corporation), and independent contractors as defined by the Internal Revenue Service.

The only provisions of this Manual that apply to the positions of the President, Vice-President, Treasurer, Secretary, Administrator, and Clerk of Court are found in Sections 3.II.A, 8, 10.III.A, and 12.III. The Tribal Council is not subject to the provisions of this Manual except the “checkout” procedures found in Section 12.III when they exit the payroll system.

The Tribal Court trial judges are not subject to the provisions of this Manual except the provisions regarding leave applications and timesheets and “checkout” procedures when they exit the payroll system. The Clerk of Court is supervised by the Tribal Court Chief Trial Judge.

II. Authority and Responsibility

A. Policy Implementation

1. The Tribal Council is the governing body of the Northern Cheyenne Tribe.
2. The Council is vested with responsibility over major policy issues, such as approving the Tribal budget and this Personnel Manual, but as a matter of policy is not involved in individual employment or personnel matters.
3. The Executive Branch of the Tribal Government, led by the Tribal President, shall ensure the policies in this Personnel Manual are implemented and followed.
4. This Manual takes effect upon adoption by the Tribal Council and supersedes previous Personnel Manuals adopted by the Tribal Council and all resolutions and ordinances concerning personnel matters, except the System of Operations, Ordinance 5(97), as amended, which applies to Tribal Officers (President, Vice President, Secretary, Treasurer) and the Tribal Council.

B. Tribal Administration

1. The Tribal President shall have ultimate responsibility and decisionmaking authority for the implementation of this Personnel Manual and management of Tribal government employees. References to the “President” in this Manual shall refer to the Tribal President or his or her designee. Unless directed by the President, the Human Resources Director shall administer the rules in this Personnel Manual. References to the “Program Director” in this Manual means the highest ranking member of a Tribal Program. References to the “Program Director” shall refer to the Program Director or his or her designee.

2. This Personnel Manual does not cover every possible situation management encounters when overseeing the Tribal workforce. In the event a situation is not addressed by this Manual, the President shall use his or her best judgment to manage in the best interests of the Tribe. In the event a provision in this Manual needs interpretation, the President's interpretation shall govern and be followed.
3. Immediate Family Member in this Personnel Manual shall mean:
 - a. Spouse;
 - b. Domestic partner;
 - c. Child of the employee, the employee's spouse, or the employee's domestic partner. (The term "child" shall include natural offspring; stepchildren; adopted children; grandchildren; legal minor wards or other dependent children who are under legal guardianship of the employee, of the employee's spouse, or of the domestic partner);
 - d. Parents (including step and legally adopted parents) of the employee, the employee's spouse, or the employee's domestic partner; and
 - e. Brothers and sisters (including step and legally adopted brothers and sisters) of the employee, the employee's spouse, or the employee's domestic partner.
 - f. In the Program Director's reasonable discretion, an Immediate Family Member may include individuals related by traditional Tribal kinship practices, e.g. traditional family adoptions, first cousins recognized as a sibling, uncle, or aunt as mother, etc.

III. Sovereign Immunity

Nothing in this Personnel Manual is intended to or shall constitute a waiver of the sovereign immunity of the Northern Cheyenne Tribe or its Tribal Council, officers or employees.

This handbook does not constitute a contract or create contractual rights. The policies and procedures in this handbook may be changed by the Tribal Council with or without notice.

SECTION 2 – EMPLOYMENT CLASSIFICATION AND STATUS

I. General Classification Policy

A. Establishment

The Human Resources Director shall recommend to the Tribal Council the classification of all positions. Recommendations shall be in writing and explain the need for the position(s). Only those classes approved by the Tribal Council will be used. A position may be reclassified by the Human Resources Director on the basis of changes in or re-evaluation of the duties, responsibilities, and qualification requirements of the position.

B. Procedures

1. Each position in the Northern Cheyenne Tribe shall be described in writing.
2. Each employee shall be provided with a copy of his or her job description when hired.
3. A copy of the job description shall be made a part of the employee's personnel file.
4. When an employee changes positions, he or she will be provided a new job description and it will also be added to his or her personnel file.
5. The immediate supervisor will be responsible for ensuring that job descriptions are accurately maintained and up-to-date. As a minimum, the job description shall include:
 - a. Job title.
 - b. Employment Status Classification (e.g., full time, regular).
 - c. A statement of the duties, responsibilities and authority of the position.
 - d. Any required certifications or licenses.
 - e. The identity of the supervisor and subordinates (if any).

II. Employment Classification, Benefits and Status

- A. **Regular/Full-Time Employees:** A regular full-time employee is one who has successfully completed the probationary period and is customarily scheduled to work 40 hours weekly. Regular full-time employees are eligible to receive all employee benefits provided by the Tribe.
- B. **Regular/Part-Time Employees:** A regular part-time employee is one who has successfully completed the probationary period and is customarily scheduled to work between 20 and 39 hours weekly. Regular part-time employees are normally paid on an hourly basis. Regular part-time employees are eligible to receive all employee benefits on a prorated basis.
- C. **Sub-Employees:** A sub-employee is an at-will employee hired and placed in a stand-by pool or on-call status for coverage of employment positions requiring an immediate job placement (e.g. shift employees for 24/7 operations) as determined by the Program Director

and approved in advance by the Tribal President.

- D. Temporary Employee (Full-Time and Part-Time): A temporary employee is one who is appointed to a full or part-time position of specified limited duration, not to exceed 90 days. Temporary employees are not eligible for Section 125 benefits.

Temporary employees shall be eligible for paid holidays if they work the day prior to and the day after the holiday and would work on the day that the holiday is observed if it were not a holiday.

Temporary employees shall be eligible for bereavement, voting, and administrative leave if they work the day prior and the day after the day of leave.

Temporary employees are entitled to no other forms of leave.

- E. Volunteers: Certain individuals may volunteer for the Tribe without receiving pay. Reasonable and necessary actual out of pocket expenses approved in advance by the Program Director incurred by volunteers in volunteering activities, such as those reasonable and necessary expenses to attend a meeting or training, will be reimbursed. When necessary, reasonable expenses for travel may be provided in advance so long as they are itemized and authorized in advance by the Program Director. In the event the travel expenses are not properly used by a volunteer, that volunteer will not be allowed to serve as a volunteer for the Tribe in any capacity until any amounts owing are paid back to the Tribe. Volunteers may have access and use Tribal equipment, supplies, and facilities that are reasonable and necessary to engage in the volunteer activities if authorized by the Program Director. The Tribe or program shall obtain insurance to cover injury or accident that may arise from the volunteer activities.
- F. Non-exempt Employees: Those who are not exempt from the minimum wage and overtime provisions of the Fair Labor Standards Act. For hours worked in excess of 40 in a week, non-exempt employees shall receive pay at a rate of 1-1/2 times the employee's regular hourly rate or will receive compensatory time at a rate of 1-1/2 hour for each hour of overtime worked.
- G. Exempt Employees: Those who are exempt from the minimum wage and overtime provision of the Fair Labor Standards Act. Exempt employees are paid on a salary basis and do not receive overtime pay or compensatory time.
- H. Probationary Period Employees: Probationary employees earn annual leave from the date of hire but are not eligible to use it until they have completed 90 days of continuous service. Probationary employees may use sick leave benefits and receive life insurance benefits beginning with the first day of employment.

III. Probationary Status Employees

A. Policy

Except as provided in Section 2.III.C.2 below, every new employee is required to successfully complete a probationary period of 90 calendar days from the date of employment. This period is

to be utilized for the most effective adjustment of a new employee and for the evaluation and possible separation of any probationary employee whose performance does not meet the required standards of work.

B. Procedures

1. At least one week before the end of the 90 calendar day period, the immediate supervisor will prepare and submit to the Human Resource Director the Probationary Appraisal Form, which contains a review of the employee's performance and recommendations for appropriate action. The supervisor may recommend one of the following actions:
 - a. End of the probationary period at the end of the 90 calendar day period.
 - b. Extension of the employee's probationary period, not to exceed one month, at which time corrective or training efforts will be re-evaluated.
 - c. Termination. No cause is needed to terminate a probationary employee.
2. The supervisor will go over the performance evaluation with the employee. In all cases, the employee will be notified of the recommended action and the reason(s). An Employee Action Notice (EAN) must be completed by the immediate supervisor before the status is regular. All copies of EAN shall be submitted to the Human Resources Office.
3. If an evaluation is not completed within the 90-day period, it shall be presumed that the employee's performance was satisfactory and the employee shall be granted regular status and may not be terminated without cause.

If an employee is terminated during the probationary period, including any extension of the initial probationary period, the employee shall have no right to utilize the grievance process to challenge the termination.

Change in status from probationary to regular employment shall be provided to the employee in writing and a copy of such notice shall be placed in the personnel file of the employee.

C. Probationary Status of Transfers

1. Employees transferred from one Tribal program to another are subject to the probationary rules of this Section 2.III.
2. Employees who have completed the probationary period and are transferred within a Tribal program are not subject to the probationary rules of this Section 2.III.

D. Separation of Probationary Employees

During the probationary period, the employee may be terminated at any time with or without cause. The probationary employee shall not be eligible for payment (payout) of any accrued

annual or sick leave upon separation.

A probationary employee will not be allowed to attend any off reservation training until their employment status becomes regular unless waived by the President or his or her designee.

IV. Fair Labor Standards Act (FLSA) Exempt Employees

Under the FLSA, exempt employees are paid a fixed amount on a salary basis, meaning they are paid a fixed amount for a work week regardless of the number of hours worked. Also, no deductions can be made from compensation for absences of less than one day in duration (e.g., tardiness, personal leave etc.). Absences can be charged to earned annual or sick leave. Exempt employees do not have to be paid overtime when they work more than 40 hours in a work week. However, exempt employees are required to keep the same records of time worked and duties performed as non-exempt employees. Employees are classified as exempt or non-exempt based on specific job descriptions and duties. Employees are classified as exempt if the individual falls into one of three classes - executive, administrative, or professional. The criteria for each class are defined below.

Exempt employees are classified as executive, administrative or professional. In order to be classified as such, the employee must be paid on a salaried basis of at least \$913 per week. Additional criteria for each classification is provided below.

- A. Executive. The employee must meet all of the criteria defined below to be classified as an executive:
 - 1. A primary duty must be managing the Tribe, or managing a customarily recognized department or subdivision of the Tribe;
 - 2. Customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and
 - 3. Have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight.

- B. Administrative. The employee must meet all of the criteria below to be classified as an administrator:
 - 1. Perform primarily duties consisting of non-manual or office work related to management policies or general business operations of the Tribe; and
 - 2. Customarily exercise discretion and independent judgment with respect to matters of significance.

- C. Professional. The employee must meet all of the criteria below to be classified as a professional:

1. The employee's primary duty must be the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character and which includes work requiring the consistent exercise of discretion and judgment;
2. The advanced knowledge must be in a field of science or learning; and
3. The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

SECTION 3 – COMPENSATION

I. Position Compensation Plan

A. Purpose

Salary ranges shall be established in order to provide a basis for recognizing individual differences among positions.

1. No employee shall be paid less than the federal minimum wage.
2. Salary ranges shall be established with reference to comparable positions in the area.
3. Salary increases may be given based on merit and no more frequently than annually.
4. An employee who is demoted for cause shall be paid at the rate of the lower position subject to grievance rights.

B. Scope

The position classification plan shall be based upon the analysis of the duties and responsibilities of each position and will be maintained on a current basis. The plan will include:

1. An appropriate classification for each kind and level of work.
2. A description of the duties and responsibilities of each classification.
3. A statement of the knowledge, skills, and abilities generally needed to perform the work.
4. A statement of any special qualifications necessary to enter the position.

C. Procedure

1. When a new position is needed, the supervisor shall send to the Human Resources Director a written request to establish a new position which must include information justifying the need for the new position, the knowledge, skill or other prerequisites for the position, the duties of the position and expected funding for the position. The Human Resources Director may assist.
2. Approval of the President shall be required before proceeding with the hiring process.

II. Pay System

A. Procedures

Employees will be paid on a biweekly basis and shall be paid every other Thursday. Pay periods will be uniform for all programs. If the pay day falls on a holiday, the Tribe will pay on the working day proceeding the normal pay day.

1. Time sheets/activity reports, sign in/out sheets and leave slips must be submitted to Central Finance each Friday by 12:00 pm. The Human Resources Office must submit all Employee Action Notices each Monday by 12:00 pm. Submission dates are subject to change for Holidays or Administrative Leave.

All approved leave slips must be verified with the sign-in/out sheets by the Human Resources Office prior to submission of the approved time sheet to the Payroll Department. The Human Resource Department will verify and process approved leave slips on Tuesdays and Thursdays of each week. The deadline for program staff to submit approved leave slips to the Human Resource Department is each Thursday at 5:00 pm. All leave slips that are not verified as provided above will be considered leave without pay.

All time sheets are needed for audit purposes for each program. They must include all pay period dates, the date submitted, employee PR#, employee name and correct hours from the time sheets and leave slips. Each program must double check figures on each time sheet and leave slip to ensure the numbers match. Any documents submitted after the time deadline will be routed to the President and will need to be resubmitted the following pay period. Time sheets shall be signed by the employee and shall not be changed by the supervisor or payroll without concurrence of the employee. In the event of a death in the family or other unforeseen personal emergency, the employee may delegate by telephone or writing to the department time keeper. Changes to the time sheet shall be initialed by the employee unless the change is the result of mathematical error or failure to verify attendance or absence.

2. Paychecks will be presented to employees by the Finance Office or designee. Paychecks will be released from the Finance department to a program designee on pay-day Thursday at 10:00 am.
3. Expense advances are contingent on the timely submission of documentation required by the Travel manual. If the documentation is not filed on time the Tribe will deduct the advance from the employees' pay through payroll garnishment.
4. Employees having delinquent financial obligations for travel advances (or other employment related advances) to the Tribe shall have 25% of their net earnings per pay period deducted until their debt to the Tribe is paid in full. In the event an employee receives a travel advance and the trip is not taken, the full amount advanced will be deducted from the employee's next payroll and additional payrolls until the total travel advance is reimbursed.
5. The Tribe shall recognize legal and valid garnishment orders and levies issued by a court of competent jurisdiction or a federal agency having such jurisdiction. Competent jurisdiction shall mean a court which is recognized by the Tribe as having jurisdiction over the issue.
6. Each employee and immediate supervisor will provide necessary information to the bookkeepers before the employee begins work. It shall be the responsibility of the employee to notify their supervisor of all changes in payroll status.

B. If You Are Absent on Pay Day

An employee may designate in writing a person to physically receive their paycheck but must provide the reasons for such designation. In such case, the Tribe will release the paycheck to the designated person. This practice is discouraged.

C. Unclaimed Pay Checks

Pay checks not claimed by employees within two weeks of the date issued must be returned to the Finance Department.

D. Pay Checks Lost

Employees are responsible for their pay checks after they have been issued. Checks lost or otherwise missing should be reported immediately to the Payroll Department so that a stop payment order may be initiated. A stop payment fee may be assessed to the employee and deducted from the next pay check.

E. Cashing of Pay Checks

Employees are expected to cash their pay checks on their personal time.

F. Final Pay Check for Terminated Employees

The final pay check for an employee whose employment with the Tribe has ended whether voluntarily or involuntarily, shall be provided as part of the next payroll cycle. The final pay check for a resigning employee will include pay for all accrued annual leave and comp time less any deductions for costs owed to the Northern Cheyenne Tribe. The President must approve deductions in the final paycheck, based upon recommendations of the Treasurer, the Program Director and the employee's supervisor. No other form of leave will be paid out. In unusual circumstances, a Program Director may make arrangements for earlier payment to voluntarily-terminated employees.

G. Pay Adjustments

Any request for adjustments in pay already received will be made in writing, and will only be allowed if approved by the responsible supervisor and the President. A request for adjustment for compensable time must be made within 30 calendar days from the receipt of pay for the day(s).

H. Pay Level

Pay levels are recommended for approval to the President by the Program Director based on the nature of the position and budgetary and market conditions.

I. Obtaining Salary Increases

Salary increases may be granted for one of the following reasons: merit, tenure, promotion, cost of living. Raises shall be recommended by the immediate supervisor prior to approval by the

Program Director with concurrence by the President. Salary increases of any kind may be denied based on budgetary considerations. In the event a budget revision is needed to fund a salary increase, the increase is not effective until the revision becomes effective.

1. Merit Raises

A merit raise may be granted to employees whose performance is exemplary and above and beyond the satisfactory expected level. A merit raise will have the effect of raising the step level of a person's salary within a grade level. Once an employee reaches the top salary within a grade at the top step level, such employee cannot receive further merit raises unless they become qualified for a higher grade position.

2. Tenure Raises

Tenure raises may be granted to employees based on their number of years as a Tribal employee.

3. Cost of Living Raises

Cost of living raises shall result in all positions of the entire workforce or a certain program on the wage and salary scale being raised by the percentage amount of the cost of living. Thus each step level within a grade would have the salary range recalculated based on the amount of the cost of living raise.

4. Promotion or Substantial Increase in Responsibilities

When the responsibilities of an employee have increased substantially, the supervisor or employee may request a pay increase by submitting a written request to the President. The request should outline the reasons the supervisor or employee believes a pay class increase is warranted.

K. Fringe Benefits - Section 125 Cafeteria Plan

An employer contribution of a minimum of 18% of the employee's salary will be made on behalf of each permanent full-time or part-time employee on a monthly basis pro-rata each fiscal year. The employer contribution can be used to pay for flexible spending accounts (such as health insurance premiums, medical care expenses or day care expenses), or taken as a cash option or deferred to a tax-sheltered annuity.

Each eligible employee must sign an election form in the Human Resources department by September 30th, the beginning of a new fiscal year. The plan year will begin October 1 and end September 30. These election forms will list each employee's amount of employer contributions, employee redirection, and type of account.

At the end of the plan year, all contributions forfeited will be distributed to all plan members in equal amounts; this does not include the employees who received a 100% cash option or a tax sheltered annuity.

III. Non-Exempt Employee Work In Excess of 40 Hours

Prior to working more than 40 hours, the non-exempt employee must obtain written authorization from his or her supervisor.

Compensation time earned, the length of time worked, the reasons for such overtime, and pre-approval will be documented by the responsible supervisor.

IV. Compensatory Time

So long as not in violation of federal grant fund requirements, employees will be paid compensatory time instead of overtime pay at one and one-half the regular rate of pay. Up to 240 hours of compensatory time may accrue. Employees should take compensation time within thirty (30) days of its accrual if scheduling permits. Upon separation from employment, all accrued, unused compensatory time shall be paid at the final separation rate of pay. Requests for leave for compensatory time shall be done in accordance with annual leave requirements and are approved and scheduled by the supervisor. Compensatory time accrued in excess of 240 hours earned by non-exempt employees shall be paid at one and one-half times the hourly rate of such person. Police and Fire employees can accrue up to 480 hours if the Police or Fire department elects to use a work period of greater than 7 consecutive days. If reasonable and necessary and within the applicable budget, the Tribal President may authorize overtime pay instead of compensatory time.

SECTION 4 – HIRING AND EMPLOYMENT PRACTICES

I. Recruitment and Selection

A. Open Competition

Applicants who are existing Tribal employees must compete with those who are not currently employed by the Tribe. However, in the event two applicants are considered to be equal, the Tribal member must be hired.

B. Step by Step Process

To fill any vacant position, the following steps in this Section 4 shall be followed.

C. Position Description/Qualification Statement

Identify or create a position description. If a position description is not available, it is the responsibility of the Program Director to create a position description in consultation with the Human Resources Director. All position descriptions must contain, at minimum, the major duties and responsibilities and minimum qualifications for the position. Any positions requiring licenses, certifications or similar requirements shall be identified, as well as any criminal history that would bar employment. To the extent possible, position descriptions should be consistent and uniform.

D. Recruitment

The Northern Cheyenne Tribe will make every effort to attract qualified applicants to meet current and projected hiring needs including tailoring recruitment efforts to the requirements of the positions to be filled, publicizing all vacancies for a minimum of 5 business days in public places, and advertising job opportunities widely in order to contact the largest pool of qualified applicants. Recruiting efforts shall target areas with a relatively large Native American applicant pool.

E. Job Announcements

1. All job vacancies will be advertised for a minimum of 5 business days.
2. Announcements shall be posted at all reasonable physical and online locations including without limitation the Tribal website, in conspicuous places in the Tribal Administration Building, in other Tribal offices, and in local newspapers. Human Resources may enlist the assistance of the State employment agency.
3. Job Announcements will be consistent with the position description and specify, at minimum: title and salary range; whether the position is salaried and therefore exempt from the FLSA; nature of the work; experience and education required (if any); time, place, and manner of making application; special skills, qualifications, licenses, certifications, or similar requirements; that applicants will be subject to drug and alcohol testing prior to hire; and the closing date of the announcement.

4. Temporary employees may fill positions of up to 90 days, with no extensions allowed, without the position being advertised.

F. Application

All applicants for employment shall complete a standard application form and sign a release of information form. Such forms shall be submitted to the Human Resources Director. With respect to information submitted by applicants in the recruitment and selection process, the Tribe will maintain that information as confidential and comply with provisions of the Privacy Act of 1974.

G. Certification of Eligible Employees

Upon the closing date of the announcement, the Human Resources Director will review all applications to ensure that applicants submitted the application by the deadline.

The Program Manager will determine who meets the minimum qualifications specified in the job announcement and submit to the President and Human Resources Director a list of those candidates meeting the minimum qualifications for the position.

On a case-by-case basis, if there is only one qualified applicant, the position may be filled by the Program Director with the approval of the Tribal President.

H. Background Investigation

All background investigations required by law shall be carried out by the Tribe. For example, the Human Resources Director shall ensure that all Tribal programs are in compliance with the Indian Child Protection and Family Violence Prevention (ICPFVP) Act, which requires background checks for Tribal employees, employee applicants, volunteers, or contractors that may have regular contact with, or control over, American Indian children.

I. Interviewing

The Human Resources Director shall provide files of applicants being interviewed to the Program Director. These files must be returned to the Human Resources Director upon completion of the interview. No applicant will be paid any travel or per diem expenses relating to interviews, screening, or testing.

II. Selection For Interviews and For Position

A. Committee

The Program Director shall create a Selection Committee for screening and interviewing applicants. The Program Director may be a member of the Committee. To the extent possible, the committee shall be made up of department personnel with the requisite expertise in the area to be hired. No member of the selection committee may be an Immediate Family Member of any applicant. The Human Resources Director is not required to be an active member of the Committee. The Committee will be an odd number of individuals (3, 5, etc.) and make decisions by majority vote.

B. Evaluation of Employment Application and Interviews

1. Each applicant reviewed by the Selection Committee will be evaluated and scored using a point evaluation system.
2. Prior to the advertisement of the position, the Selection Committee shall establish the point evaluation system based on the factors listed in Section 4.II.B below. The point evaluation system shall be based on a 200-point scale.
3. The following factors will be utilized and assigned a score:
 - a. Education – General and Job-Related (Educational courses which are relevant to the position)
 - b. Experience – General and Job-Related
 - c. Special Job Skills or Training
 - d. Veteran Status
 - e. Indian Affiliation
 - f. Interview Performance
4. For Indian Affiliation, the applicant shall receive the highest applicable number of points from one of the following categories.
 - a. Enrolled member of the Northern Cheyenne Tribe (15 points)
 - b. Enrolled member of a federally-recognized tribe who is the spouse or has legal custody of a child who is an enrolled Northern Cheyenne Tribal member (8 points)
 - c. Other member of a federally-recognized tribe (6 points)
 - d. Non-Indian spouse or parent of an enrolled Northern Cheyenne Tribal member (2 points)
5. Veterans of the United States Armed Forces shall receive 5 points. Veterans awarded a purple heart shall receive an additional 2 points.
6. An applicant cannot be disqualified as "overqualified."
7. To determine the applicants to interview, each member of the Selection Committee will score each applicant based on the points system established for the position, except that no score will be given for interview performance. The scores will be added together and the applicants with the top scores will be provided the opportunity to interview. The number of people to interview is determined by the Committee.
8. After the applicants interview, each member of the Selection Committee shall provide a score for the interview which will be added to the scores derived in Section 4.II.B above.
9. The applicant with the top score will be offered the position, provided that if one or more applicants are within 10 points of the applicant receiving the top score, then the Selection Committee may select the successful applicant.

10. If the chosen applicant does not accept the position, then the Program Director may offer the position to the next highest applicant or re-advertise the position.
11. Upon request, an applicant who does not receive a job offer may receive the numerical score he or she received but no additional information.

III. Appointment

A. Action

The candidate selected shall be notified by a letter of appointment from the Program Director which shall specify the position title, type of appointment (such as full-time, part-time, regular, temporary, etc.), pay, starting date, and any other pertinent information. A copy of the letter shall be submitted to the Human Resources Office for submission to the personnel file.

Upon acceptance, the Program Director shall officially notify in writing non-selected applicants that they were considered, but not selected.

Employment with the Tribe is contingent upon the availability of funds. Employment may be terminated and the layoffs effective in the event the program manager/supervisor determines it has inadequate funding to provide services and staffing at the levels initially proposed.

B. Physical Examination

Before appointment, appointee may be required at the discretion of the Program Director, with concurrence by the Tribal President, to take and pass a satisfactory physical examination. The examination may be conducted at IHS to defray costs if applicant is eligible. Requirements for the physical examination is uniformly applied, based on job specifications and will be used to determine preexisting conditions for workmen's compensation benefits.

C. Relocation Expenses

The Tribe does not pay relocation expenses.

D. Anniversary Date

1. Except as provided in Section IV.D.2 below, the anniversary date for all employees shall be the date of hire so long as they maintain continuous employment.
2. If employment is interrupted for 180 days or less for any reason other than termination for cause then the anniversary date for employees shall be their initial date of hire.

IV. New Employee Orientation

A. Policy

All new employees shall be provided orientation to help them learn about serving the Tribe in their new position.

B. Procedure

To the extent possible, new employees will meet the Program Director on their first day of employment to receive information concerning general conditions of employment, hours of work, pay, fringe benefits, privileges, and responsibilities. Each employee will receive a copy of the Personnel Manual and sign Appendix A to this Manual to assure that they have read and understand the manual and agree to abide by its terms.

The direct supervisor will provide the rest of the orientation, including:

1. explaining Tribal government structure, functions, and policies;
2. explaining the mission and goals of the program;
3. providing and reviewing a copy of the position description to ensure the new employee understands the position duties and responsibilities, working hours, and other requirements;
4. explaining the probationary period;
5. introducing the new employee to fellow workers; and
6. explaining conditions related to his/her job and work site.

The direct supervisor and the new employee will complete the Employee Orientation Checklist for each new employee hired. It presents a systematic outline for explaining policies and procedures to a new employee so they will have a thorough understanding of what is expected.

C. Employee Forms/Personnel

1. Upon hiring, the employee shall complete all necessary forms required by the Human Resources Office including the forms below.
2. The new employee shall also complete a "Notification of Domicile" identifying the location of the employee's domicile including phone number. If the employee's domicile changes during the period of the employment, the employee is required to immediately inform the Human Resources Director by completion of a new "Notification of Domicile." Domicile shall mean the location where a person maintains a continuous presence and maintains their eating and sleeping quarters on a continuous basis. Other forms which may be required include:
 - a. Background Consent form
 - b. Payroll forms
 - c. Computer Media form
 - d. Signed Personnel Agreement form
 - e. Confidentiality form
 - f. Selection of Comp Time or Pay form
 - g. Payroll Certification form
 - h. Fund Distribution form

V. Special Short-term Assignments

A. Policy

It is the policy of the Northern Cheyenne Tribe to assign staff to temporary positions when it is in the best interest of the Tribe to do so.

B. Procedure - Special Assignments

1. The President, with the concurrence of the employee's Program Director, may assign staff from their normal position to a temporary position to provide special skills to solve special problems or to provide specialized training. The Program Director will identify a specific problem or program that needs strengthening, where the temporary assignment of an employee with the required skills would contribute significantly to resolving the problem(s). Special assignments shall not exceed 90 calendar days. A special assignment does not involve a change in employee status and does not require an Employee Action Notice, except when an adjustment in pay is required due to duties being significantly higher than the employee's regular position.
2. An employee on special assignment will retain all rights and benefits accrued under their original position. These include position security and fringe benefits eligibility.
3. Employees who are temporarily assigned to a higher paying position will be paid at the higher rate of pay for the duration of the detail, beginning with the first day of the assignment.

C. Assignment to Acting Status

The Program Director may request an employee to assume the duties and responsibilities of a vacant position in an acting status pending recruitment and selection of a regular appointment to the vacant position. The appointment to acting status shall not exceed 30 calendar days.

An employee in acting status may apply for regular appointment to the position. Performance during the period in acting status shall be considered in assessing qualification for regular appointment.

SECTION 5 – WORK STANDARDS

I. Work Schedules

- A. Work Day. The normal workday for regular full-time employees is eight 8 hours, 8:00 a.m. to 5:00 p.m., with a one-hour lunch period and two 15 minute breaks.
- B. Work Week. The normal work week for full-time employees is 40 hours per week. Each work week begins on Sunday at 12:01 am.
- C. Flexible Schedule. In the discretion of the Program Director, employees may have flexible schedules, such as early starts or workweeks of four ten-hour days, if approved in writing by the Tribal President. The Program Director may allow lunches of less than 60 minutes to allow shorter work days. Flexible schedules may be provided to employees who work outside of regular work hours, longer than a normal work day, or during holidays or administrative leave.
- D. Time Cards and Time Sheets. Each employee shall record their work hours by punching in when reporting to work and punching out when departing from work on their time card in the time clock provided or by completing a time sheet in a form acceptable to the Tribe. If a mistake is made on a time card, a supervisor must approve of any changes with his or her initials. Falsifying time cards or time sheets may lead to discipline up to and including termination. The time sheets shall also indicate annual leave, sick leave, and other forms of compensable leaves.

II. Work Status

A. Compensable Hours

- 1. Hours worked are all hours that the employee is permitted to work for the Northern Cheyenne Tribe. This shall also include time during which the employee is necessarily required to be on the Tribe's premises or other place for work purposes.

For purposes of calculating pay, including overtime and compensable time, the following constitutes work hours:

- a. meal periods if the employee is not free to leave their posts;
- b. the time actually worked when called into work as a result of being in on-call status;
- c. breaks of 15 minutes or less;
- d. training;
- e. traveling between work sites or traveling for work during working hours;
- f. waiting time associated with the job while on duty.

For purposes of calculating pay, including overtime and compensable time, the following does not constitute work hours:

- a. absences including all leaves;

- b. meal periods where the employee is freed from duties;
 - c. on-call time;
 - d. commuting time between home and job;
 - e. voluntary training/school after working hours;
 - f. waiting time before starting duties and before working hours.
2. Employees are not required to remain at work during their meal period. An employee may not waive his or her lunch period and thereby leave his or her workstation prior to the end of the normal work day.
 3. Employees shall not work from home without prior approval from the immediate supervisor and the President.

III. Absenteeism

Employees are to report to work each day ready to work at the start time for their position. An employee who is going to be absent should strive to notify their supervisor or the department head of the reason for the absence within 30 minutes after their work day begins. Employees who fail to give such notification shall receive an unexcused absence.

An employee absent from work for one working day without notification shall be declared Absent Without Leave.

An individual who is Absent Without Leave will not accrue annual leave, sick leave, or other employee benefits during their absence. Such leave will be reduced on a pro rata basis proportionate to the number of hours Absent Without Leave.

If an employee is absent three consecutive working days without notification, they shall be put on suspension without pay pending investigation. If the investigation determines that the employee could have informed the supervisor and did not, the employee shall be terminated.

IV. Tardiness

Each employee is to be at their place of work and ready to work at the starting time. Excessive tardiness as determined by the supervisor may lead to discipline up to and including termination.

V. Change in Status

Employees shall be responsible for notifying their supervisor and the Human Resources Director about changes in their address, telephone number, persons to be notified in case of accident and any other pertinent information.

VI. Duty of Loyalty

Employees owe a duty of loyalty to the Northern Cheyenne Tribe and shall act in the best interests of the Tribe while a Tribal employee.

VII. Multiple Tribal Jobs

An employee normally shall not hold two or more jobs within the Northern Cheyenne Tribe or with an entity of the Northern Cheyenne Tribe. Exceptions may be made for situations requiring certified trained employees if prior written approval is obtained from the Program Director.

SECTION 6 – SAFETY AND HEALTH

I. Overview

All employees will comply with all safety and health requirements whether established by management or by federal, state, or local law.

- A. Each supervisor shall be alert to protect the safety and health of employees by inspection of work areas, familiarity with all safety and health procedures, and proper training of employees in matters of health and safety.
- B. All observed safety and health violations and any accidents resulting in injuries to employees shall be reported immediately to the Human Resources Director.
- C. All employees are encouraged to submit suggestions to management concerning safety and health matters. The Tribe shall not retaliate against employees for bringing such suggestions submitted in good faith.
- D. Safety clothing and equipment, such as safety glasses or protective footwear, required by OSHA regulations, will either be provided by the Tribe without cost to employees or the Tribe will reimburse employees for the expense of such items upon presentation of a sales receipt.
- E. Employees who are exposed to toxic substances and harmful physical agents shall be given the following information at the time they are first hired and at least annually thereafter:
 - 1. The existence and location of any employee exposure to toxic substances or harmful physical agents which are maintained or caused to be maintained by the Tribe;
 - 2. The identity of the person responsible for maintaining and providing access to such records; and
 - 3. The right of each employee or the employee's designated representative to examine and copy such records.

II. Personal Property

The Tribe is not responsible for the loss or theft of personal belongings. Employees are advised not to carry large sums of cash or other valuables with them when they come to work.

Articles of personal property found on the premises should be returned to the owner, if known, or turned in to the Human Resources Director. Inquiries regarding lost property should be directed to the Human Resources Director.

Damage to personal vehicles while on Tribal business is the responsibility of the employee.

III. Tribal Property

All personnel shall be responsible for safeguarding, protecting and exercising reasonable care

of Tribal property. Any loss, damage or theft of property shall be reported immediately to the employee's supervisor and to the Property and Supply Office.

Employees shall be held accountable for loss of Tribal monies or property for which they are responsible where the loss is due to intentional action or negligence.

IV. Parking

It is the policy of the Tribe to provide parking facilities for the convenience of its employees.

- A. In the interest of safety, fire protection, and conservation of available spaces, employees are expected to observe the parking rules, including those established by the President. In particular, employees are required to park only in designated spaces and to observe posted speed limits.
- B. It is recommended that employees keep their cars locked while in the parking lot. The Tribe assumes no responsibility for any damage to, or theft of, any automobile or personal property left in the automobile in the parking lot.

V. Tobacco Use

Smoking tobacco products of any kind is prohibited in all Tribal facilities and workplaces.

VI. Conflicts, Order of Precedence and Severability

Applicable federal law shall control if conflicts exist between these policies and applicable federal law. If conflict exists between these policies and applicable federal law, only the section of these policies shall be affected and shall be declared void. All other severable policies shall remain in force.

Specific exceptions may be granted to other departments as required by program regulation, or as granted by Tribal Council ordinance where proper justification by the program is presented and where such exception is not in violation of applicable federal law.

VII. Drug and Alcohol Testing

The Northern Cheyenne Tribe drug and alcohol policy is attached as Appendix B to this Manual.

SECTION 7 – EQUAL OPPORTUNITY

Equal Employment Opportunity

The Tribe strives to be an equal employment opportunity employer, and to comply with all applicable laws prohibiting discrimination based on race, color, religion, sex, age, national origin or ancestry, physical or mental disability, veteran status, and any other basis protected by federal law (“Protected Group Status”).

Disability Accommodation

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

Unlawful Discrimination and Harassment

DISCRIMINATION

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

Employees should report every instance of discrimination to his/her supervisor and/or the Human Resources Director regardless of whether the employee or someone else is the subject of the discrimination. Detailed reports - including names, descriptions, and actual events or statements made - will greatly enhance the Tribe's ability to investigate. Tribal management will take any appropriate corrective and disciplinary action.

HARRASSMENT

The Tribe prohibits harassing conduct on the basis of any Protected Group Status.

Harassing conduct is any unwelcome conduct, verbal or physical, that either: (1) results in an employment decision affecting the employee and is based upon the employee's acceptance or rejection of such conduct (sometime referred to as “quid pro quo harassment”); or (2) can reasonably be considered to adversely affect the work environment (sometimes referred to as “hostile work environment”).

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

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

1. Unwanted sexual advances.
2. Offering employment benefits in exchange for sexual favors.

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

Any employee who believes that he or she has been subjected to, or has witnessed, any harassing conduct should report the matter promptly to a person in the chain of command.

In instances of alleged harassing conduct, the Tribe will take every step to ensure a fair and prompt resolution. Tribal management must act fairly and promptly to investigate and resolve reports of harassing conduct. Where appropriate, the Tribe will provide interim relief to employees who are victims of alleged harassing conduct to ensure that further misconduct does not occur. If harassing conduct is found to have occurred, Tribal management will take any appropriate corrective and disciplinary actions. The Tribe will take disciplinary actions against Tribal management who do not fully carry out their responsibilities under this policy.

Bullying

Bullying is prohibited. Bullying is defined as any of the following repeated behaviors, either direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work or in the course of employment:

- **Verbal Bullying:** slandering, ridiculing or maligning a person or his/her family; persistent name calling which is hurtful, insulting or humiliating; using a person as the subject of jokes; making abusive and offensive remarks.
- **Physical Bullying:** pushing; shoving; kicking; poking; tripping; assault, or the threat of physical assault; damaging a person's work area or property.
- **Gesture Bullying:** non-verbal threatening gestures which can convey threatening messages.
- **Cyber Bullying:** harming or harassing through the use of information technology networks.
- **Exclusion:** socially or physically excluding or disregarding a person in work-related activities.

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

NO RETALIATION

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

SECTION 8 – EMPLOYMENT BENEFITS

I. General Leave Policy

- A. All leave, whether paid or unpaid, must be authorized in writing by the appropriate supervisor.
- B. Documentation

The supervisor must submit the written leave approval to the Human Resources Office and attach it to the time sheets that are submitted to payroll.

II. Annual Leave

A. Eligibility

All employees are eligible to be paid for annual leave except new employees during their probationary period.

B. Earning Rate

- 1. Eligible employees shall accrue annual leave as follows:

<u>Years of consecutive employment</u>	<u>Accrual rate for each two-week period</u>
Up to 2 years	4 hours
2-6	6 hours
Over 6 years	8 hours

- 2. Part-time employees shall receive a prorated amount of annual leave using the above schedule.
- 3. New employees cannot use annual leave until their probationary period is completed and regular employment status is granted. Annual leave accrues during the probationary period for probationary employees, but will not be paid out if the employee fails to attain regular employment status.
- 4. Temporary employees do not accrue annual leave.

C. General

- 1. Annual leave must be arranged as far in advance as possible to minimize disruption of Tribal services and, except as provided below, at least 24 hours in advance. Annual leave is subject to approval by the supervisor. Should a conflict arise between employees in the same department in the scheduling of annual leave, the employee with the greater seniority shall be given the first preference.
- 2. Annual leave may be taken only when sufficient time has been accrued. Annual leave shall not be advanced. In the event an annual leave request is denied, the supervisor shall provide grounds for denial.

3. Annual leave may be used in lieu of sick leave when all sick leave benefits have been exhausted, with supervisory approval.
4. Pay in lieu of annual leave is granted only upon termination of employment.
5. Prior approval of annual leave will not be required if extenuating circumstances beyond the control of the employee occurs. The employee shall provide justification for review and approval by the manager/supervisor upon their return. If justification does not exist, then annual leave shall be converted to leave without pay.

D. Carryover

1. Annual leave may be carried over to the next fiscal year as follows:

<u>Years of consecutive employment</u>	<u>Maximum carryover hours</u>
Up to 2 years	100 hours
2 – 6 years	150 hours
Over 6 years	200 hours

Accrued annual leave shall be transferred from one program to another in the event that the employee transfers to another program.

2. Unused annual leave not in excess of these amounts will be forfeited without compensation.

E. Payout Upon Transfer or Termination of Employment

Accrued annual leave will be paid out when an employee transfers from one program to another.

Employees who terminate employment, whether voluntary or involuntary, shall receive payment for all accrued annual leave.

III. Sick Leave

A. General

Employees shall notify their supervisor as soon as possible and no later than the start of their shift when they are physically unable to report to work. If no such notice is provided, the absence shall be considered Leave Without Pay unless the supervisor determines there are extenuating circumstances justifying late notice of illness.

Sick leave is granted in the following instances:

1. Actual illness or accident prevents the employee from performing job duties;
2. Medical, dental, or mental health or optical consultation, examination or treatment;
3. Exposure to contagious disease that would endanger the health of co-workers;

4. Contagious disease within the employee's immediate household which requires the employee's personal care;
5. To care for an Immediate Family Member who is ill;
6. For purposes otherwise provided in these policies.

B. Eligibility

All employees are eligible to receive sick leave with pay, including probationary employees.

C. Accrual Rate

1. Sick leave for full-time employees accrues at the rate of 4 hours for each two-week pay period.
2. Part-time employees accrue sick leave on a prorated basis based on the number of hours worked.

D. Physicians Certificate

When an absence due to illness exceeds three working days, an employee shall be required to furnish a medical statement stating diagnosis of illness or injury, prognosis, and expected date of return to work.

E. Carryover and Transfer

Unused sick leave may be carried forward into the next fiscal year. When an employee transfers from one program to another, his or her sick leave shall remain with the employee.

F. Termination of Employment

Accrued sick leave will not be paid upon voluntary or involuntary termination.

IV. Parental Leave

A parent of a newborn or newly adopted child is entitled to up to 6 weeks of leave upon becoming a parent of such a child. Sick leave and annual leave may be used for parental leave with pay. If all annual leave and sick leave has been exhausted, leave without pay shall be used for the balance of the parental leave. A leave request shall be submitted with as much notice as possible stating the expected duration of the leave, and include paperwork of the birth in the case of a parent who seeks leave for a newborn, or of the adoption in the case of a parent who seeks leave for a newly adopted child.

Upon return, the employee shall be reinstated to his or her former position and rate of pay and shall retain all rights and benefits accrued prior to the leave. If an employee fails to return to work on the scheduled date of return without prior notification to their supervisor, the employee shall be considered voluntarily terminated.

V. Family and Medical Leave

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

A. Overview

1. The FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Eligible employees are entitled to twelve workweeks of leave in a 12-month period for:
 - a. the birth of a child and to care for the newborn child within one year of birth;
 - b. the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
 - c. to care for the employee's spouse, child, or parent who has a serious health condition;
 - d. a serious health condition that makes the employee unable to perform the essential functions of his or her job;
 - e. any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty" as defined by the Act; or
 - f. twenty-six workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member's spouse, son, daughter, parent, or next of kin (military caregiver leave).

B. Employee Eligibility

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

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

C. Notice and Certification

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

1. 30-day advance notice when the need for the leave is foreseeable.

2. Certification from a health care provider (both prior to the leave and prior to reinstatement).
3. Periodic re-certification (no more than every 30 days).
4. Periodic reports during the leave.

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

D. Compensation During Leave

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

E. Benefits During FMLA Leave

Any group health insurance coverage that the employee was provided is maintained on the same terms during the leave as if the employee continued to work instead of taking leave.

The Tribe will continue to pay whatever share of the insurance premiums it would pay if the employee was still working (the employee would pay nothing for himself or herself and pay regular premiums for dependents).

F. Job Reinstatement

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

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

VI. Stress Leave

In the discretion of the supervisor, up to 1 hour of stress leave for physical fitness or mental wellness may be granted, up to 3 days per week. Stress leave must be arranged so it does not interfere with or hamper the Tribe's operations. Stress leave does not accrue or accumulate or carryover to the following fiscal year. Stress leave may not be used to arrive late or leave early from work. Abuse of stress leave will forfeit the privilege and may subject the employee to disciplinary action up to and including termination.

VII. Bereavement Leave

A. Death in Immediate Family

In the event of a death of an Immediate Family Member, an employee may take leave with pay not to exceed five working days. The employee must notify his or her supervisor immediately so that his or her job responsibilities will be covered.

B. Other than Immediate Family Member

Leave with pay up to eight hours may be granted to attend the funeral of relatives and friends who are not Immediate Family Members.

VIII. Ceremonial Leave

Employees are entitled to four days of ceremonial leave per fiscal year for religious or traditional cultural activities. Ceremonial leave should be arranged as far in advance as possible so as not to interfere with Tribal operations. Ceremonial leave shall be granted with pay and shall be regardless of tribal or religious affiliation. Ceremonial leave does not accrue or accumulate and cannot be carried over to the following fiscal year. Ceremonial leave may only be granted for full days, and therefore may not be granted in hour increments.

IX. Alcoholism and Substance Abuse Treatment Leave

Employees who have challenges with alcoholism and/or substance abuse are strongly encouraged to take steps to address those challenges and ensure that those challenges do not impact job performance.

Employees who have alcoholism and/or substance abuse illnesses as documented by their supervisor or Program Director shall be referred by their Program Director to the Northern Cheyenne Recovery Center for counseling and treatment or a licensed facility/institution of their own choosing.

The employee must comply with the referral for diagnosis and prescribed treatment of the Recovery Center. An employee who refuses to carry out the prescribed treatment shall be terminated.

Alcohol and substance abuse leave for treatment will be charged against sick leave and annual leave. If sick leave and annual leave are exhausted, treatment leave shall be leave without pay.

Employees in the same program as the employee in need of treatment leave may donate their sick leave to such an employee.

Alcoholism and substance abuse are illnesses in which an employee's consumption of alcohol definitely and repeatedly interferes with their job attendance or performance.

The confidential nature of medical records of employees with alcoholism and/or substance abuse shall be preserved in the same manner as all other medical records.

X. Holidays

A. Policy

A schedule of paid holidays for the upcoming calendar year will be established by the Tribal Council by the beginning of the new fiscal year and no later than the end of the calendar year. Federal holidays will be included in the list.

An employee scheduled to work on a designated holiday but who does not report to work will forfeit the paid holiday. Further, an employee with an unexcused absence on a normal work day prior to or after a designated paid holiday, or equivalent day off, will not be paid for the holiday.

The Tribal Council may declare other days as administrative holidays with pay.

When a holiday falls on a Saturday, it shall be observed the preceding Friday; when a holiday falls on a Sunday, it shall be observed the following Monday.

Part-time employees shall be paid holiday pay on a pro rata basis.

B. Eligibility

All employees are eligible to receive holiday pay except new Tribal employees must serve 30 days before receiving holiday pay.

Employees are required to be present or on a paid status on the normal workdays both before and after the holiday in order to receive holiday pay. A day of approved annual leave or sick leave, or any other excused or approved leave, is considered a day worked for the purpose of holiday pay eligibility.

XI. Jury Duty and Other Court Appearances

A. The Northern Cheyenne Tribe encourages its employees to serve when called to jury duty or when required to appear in certain court cases. Leave with pay shall be granted to an employee who has been:

1. called to jury duty;
2. summoned to appear in a court proceeding on behalf of the Northern Cheyenne Tribe; or
3. subpoenaed as a witness in a court case.

An employee called to jury duty or to a court appearance shall accrue all employee benefits for the period.

B. Procedure

1. When an employee receives a notice of jury duty or summons or subpoena to appear in court, the employee must notify his or her supervisor at least three days in advance of the date they are scheduled to appear.

2. Upon their return, the employee shall present to their supervisor a signed statement from the officer of the court indicating the dates served and the amount of compensation received (less travel allowances). Fees received as compensation for jury duty shall be paid to the Northern Cheyenne Tribe, except when an employee voluntarily requests annual leave for a period of absence. Employees will be allowed to retain any reimbursements for transportation, lodging, and meals paid by the respective court jurisdiction.

XII. Voting

All employees are encouraged to register to vote and vote. On the day of federal, state or tribal elections, up to 2 hours of paid administrative leave may be granted, if such time is needed to cast a ballot, in the discretion of the Program Director.

XIII. Leave of Absence Without Pay

A. Policy

Leave without pay may be granted in the discretion of the supervisor. It is granted only upon written application of the employee and is allowed in order to maintain continuity of service in instances where unusual or unavoidable circumstances require an employee's absence. This leave is granted on the assumption the employee shall be available to return to regular employment when the conditions necessitating the leave permit end.

B. Eligibility

All employees except those in probation status are eligible for a leave of absence.

C. Authorization

To obtain authorization for Leave Without Pay, the employee must submit a written request to the supervisor which states the reason and dates of leave. The supervisor may grant a Leave Without Pay with approval by the President.

D. Reinstatement of Position

1. Upon return from a leave of absence at the scheduled date of return, the employee shall be reinstated to his or her former position and rate of pay and shall retain all rights and benefits accrued prior to the leave.
2. If an employee fails to return to work on the scheduled date of return without prior notification to their supervisor, the employee shall be considered voluntarily terminated.

E. Employee Benefits During Leave Without Pay

An employee on Leave of Absence Without Pay shall not accrue annual leave, sick leave, or other employee benefits. The individual may be entitled to coverage or use of the medical or dental benefits during the period while they are on Leave Without Pay.

XIV. Military Leave

A. Policy

It is our policy to grant a leave of absence without pay to a regular employee (full-time or part-time) who is called to temporary military duty as a member of the National Guard or as a Reserve Unit of the U.S. Armed Forces. Leave must be on Without Pay status because of federal cost standards precluding receipt of compensation from more than one federally funded source for the same time period.

B. Procedure

1. An employee ordered to active or temporary duty to a Reserve Unit or the National Guard of the United States Armed Forces shall be granted a Leave of Absence Without Pay for the period of active or temporary duty.
2. The employee requesting this leave shall submit a copy of their order and a Request for Military Leave to their immediate supervisor.
3. An employee on Military leave shall receive all employee benefits for the period of Leave Without Pay not to exceed two (2) weeks or ten (10) working days.
4. Upon the end of active or temporary duty, the employee shall be granted reemployment rights under the Uniformed Services Employment and Reemployment Rights Act (USERRA), a federal law that provides reemployment rights for veterans and members of the National Guard and Reserve following qualifying military service. USERRA requires that service members who conclude their tours of duty and who are reemployed by their civilian employers receive all benefits of employment, including without limitation seniority, status, pay and benefits, that they would have obtained if they had been continuously employed, except those benefits that are considered a form of short-term compensation, such as accrued paid annual leave. Employees must exercise their USERRA rights within thirty (30) days of completion of tour of duty and return.

XV. Veterans Leave

Veterans Leave may be granted by the President to veterans of the armed forces to participate in veteran's events and funerals. Such leave may be up to 8 hours for a funeral and 4 hours per day for any other event.

XVI. Administrative Leave

Administrative leave may be granted to employees by the President for inclement weather, power outage, health or safety, or holiday extensions. Such leave shall be granted on a nondiscriminatory, uniform basis to all employees and shall not be given to individuals or groups of employees. If an employee is on annual, ceremonial or bereavement leave they will have their annual leave converted to administrative leave.

Administrative leave may be granted for a subset of employees by the Program Director in charge of that subset for inclement weather, power outage or health or safety concerns that

prevents the employees from completing their job duties.

Volunteer firefighters may be granted administrative leave for the time associated with fighting fires and training to fight fires, including without limitation travel time.

XVII. Education Leave

Employees who have been employed continuously by the Tribe for at least one year may take educational leave with pay for higher education if approved by the President. Educational leave with pay shall not exceed more than two hours per day nor total more than six hours per week. In order to receive such leave, the employee must submit for approval a written request which states the proposed schedule for educational leave, proof of admittance into the academic institution, and a class schedule. If the employee does not successfully complete the class, the employee shall reimburse the Tribe for the value of the paid education leave taken.

Employees may take extended unpaid educational leave up to one semester if granted by the President. In special circumstances, more than one semester leave may be granted. In order to receive such leave, the employee must submit for approval a written request which states the proposed schedule for educational leave, proof of admittance into the academic institution, a class schedule, and an intention to continue or return to work as a Tribal employee.

XVIII. Donated Leave

A. Eligibility

An employee of the Northern Cheyenne Tribe that has experienced illness or hospitalization personally or has an Immediate Family Member with an illness or hospitalization for a period beyond five working days may request a donation of sick leave under this policy if they meet each of the following criteria:

1. The employee must be at or approaching a position without available paid sick or annual leave.
2. The employee must request an absence under the Family Medical Leave Act.
3. The employee must provide documentation from a medical doctor establishing the illness or hospitalization.
4. The employee must obtain approval from his or her supervisor.

B. Other rules

1. Leave donated by fellow employees must comply with all federal and grant rules.
2. All donated sick leave will be converted to the actual dollar value of the hours donated to account for differences in rate of pay by the employee(s) donating leave and the employee receiving donated leave.

3. The Program Director(s) of the employee requesting donated sick leave shall be responsible for acknowledging fellow employees who have agreed to donate sick leave and shall communicate in writing to the Human Resource Office the names and signatures of donating employees and the amount donated.

The Human Resource Office shall reduce the donating employee(s) leave records accordingly.

XIX. Employment Connected Benefits

A. Mandatory Employer/Employee Benefits

1. Social Security Taxes

All employees are required to contribute social security taxes at the rate set by federal law. The Tribe matches the employee's contribution.

2. Medicare Taxes

All employees are required to contribute Medicare taxes at the rate set by federal law. The Tribe matches the employee's contribution.

3. Unemployment Compensation

All employees are covered by unemployment compensation insurance.

4. Worker's Compensation

All employees are covered by worker's compensation insurance as determined by the State of Montana at no cost to the employee. An employee must report immediately to their supervisor any injury occurring while on the job regardless of how slight the injury may be.

B. Optional Employee Benefits

All full time, regular employees receive optional employee benefits over and above the holidays and mandatory benefits. Each year on August 1, the Tribal Treasurer recommends to the Tribal Council an optional fringe benefit package to be awarded to all full time, regular employees effective the following October 1. This package is dependent upon the availability of funds and may change from year to year. The package may include, but is not limited to, health insurance, life insurance, retirement contributions, dental insurance, vision insurance and disability insurance.

The Human Resources Director will distribute information to all employees on the optional employee benefits on September 1st of each year.

SECTION 9 – PERFORMANCE EVALUATION

I. Purpose

All employees of the Northern Cheyenne Tribe shall participate in a performance appraisal process to ensure that employees are meeting or exceeding their job responsibilities.

II. General Procedures

- A. The direct supervisor of the employee shall be responsible for conducting formal performance evaluations of the employee.
- B. A written performance evaluation shall be conducted at least one week prior to the end of an employee's initial 90-day probationary period.
- C. Thereafter, regular employees shall be evaluated on an annual basis, at minimum, and more frequently if the supervisor determines it is in the best interests of the program. Such evaluation shall be completed at least 60 days before the end of each fiscal year.
- D. The criteria for a formal written performance evaluation shall be the job duties and responsibilities as described in the employee's position description and other appropriate criteria, such as ability to work with others.
- E. The Human Resources Director shall develop a performance evaluation form which shall be utilized in the evaluation process and can be adapted to evaluate performance in all Tribal jobs based on the job description and other needs of the program which sets forth a rating system to evaluate the strength and weaknesses of job performance.
- F. A written evaluation shall be completed by the immediate supervisor, shared with the Program Director for review and comment and finalized for presentation to the employee.
- G. The supervisor shall give the employee a written copy of the performance appraisal and discuss it with the employee.
- H. The employee shall sign a copy of the performance evaluation to show that he or she received the evaluation, and may respond to the evaluation in writing in the event the employee disagrees with it.
- I. A copy of all written performance evaluations and any employee responses shall be placed in the personnel file.

SECTION 10 – CONDUCT AND ETHICS

I. Employee Conduct

All employees are expected to conduct themselves in a manner which will reflect favorably on the Northern Cheyenne Tribe.

A. Confidentiality of Proprietary Information

As a result of employment with the Tribe, employees will be provided, acquire, or have access to confidential and proprietary information belonging to the Tribe. The terms “confidential and proprietary information” shall be construed broadly to include all information that the President, program directors or supervisors deem confidential and/or proprietary. Examples of such information include personnel, employee compensation, financial, commercial, legal, and similar information.

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

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

B. Public Statements

All inquiries from the public media will be referred to the President. An employee will not speak to the public media as an official spokesperson unless designated by the President.

C. Public Appearances

An employee who is invited to make a tribal related public appearance by an outside agency or organization will obtain prior authorization from the President.

D. Gifts and Gratuities

Except as provided in Section 10.III, employees may not accept gifts, money, or other gratuities for personal use from individuals or entities who conduct business with the Tribe or are soliciting business from the Tribe.

Unsolicited gifts from individuals or firms that conduct business with the Tribe or are soliciting business from the Tribe will be used by the program for program benefit rather than personal benefit.

E. Appearance

All employees will be neat in personal appearance at all times. Employees are to wear clothing appropriate for their jobs.

II. Political Activities

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

III. Ethics and Conflict of Interest

A. Prohibitions

No employee may use their position with the Tribe for personal gain.

No employee may engage in any activity, including participating in any job-related decision or serving on a board, committee, or commission, which creates or gives the appearance of creating a conflict between their responsibilities as an employee and any personal, private, financial, social, familial or other such interest.

No employee may use Tribal property for their personal use or the personal use of others unless the employee has received proper authorization from the Program Director.

In this section “personal” refers to the employee or his or her Immediate Family Member or a business or entity of him or her or his or her Immediate Family Member.

No employee may solicit or accept, directly or indirectly, any good or service or anything of monetary value from any person or entity that has or is seeking a business or financial relation with the Tribe.

No employee may receive compensation of any kind from any private source for his or her services to the Tribe.

No employee shall use their position to coerce, threaten or intimidate a person or group to provide financial benefit or other personal gain to themselves or an Immediate Family Member.

No employee may rely on information obtained through their official position for personal gain, nor use official information and contacts for personal gain.

No employee shall willfully conceal, remove, mutilate, falsify or destroy any important Tribal papers, documents, records or property.

No employee may engage in alcohol or drug use while on the job during work hours, or after hours in a way that would impact their ability to successfully fulfill their job duties.

An employee shall refund travel expense advances when not expended for the purpose issued as set forth in the Travel Manual.

Employees shall not be favored, but will be considered of equal status with other Tribal

members in the acquisition of property or services provided by the Tribe.

Notwithstanding the above, an employee may

1. accept or give traditional gifts or awards given or received in a traditional custom or ceremony within the cultural scope of the Tribe;
2. accept unsolicited food and refreshments or gifts (except for money) of nominal value in ordinary course of business up to \$50.00 in value; and
3. may accept any personal achievement award for meritorious service.

An employee must anticipate conflicts of interest or the appearance of a conflict of interest and recuse themselves from participating in any such matter.

B. Conduct on Travel

Employees traveling for work purposes:

1. shall be asked to provide proof of attendance to all meetings or proceedings that the employee is authorized to attend.
2. shall not engage in alcohol or other substances that would impair an employee's ability to represent the Tribe or act safely.
3. shall not violate the law or otherwise act in a way that would reflect poorly on the Tribe.
4. shall not use any Tribal funds for any person accompanying the Tribal employee on the trip. No immediate family or friends shall travel at tribal expense unless delegated by a Committee, Commission, Board or Tribal Council on official Tribe business.
5. shall not engage in personal business.

C. Misuse of Funds or Equipment

1. Funds. Employees shall be held accountable for tribal moneys entrusted to their tribal program use or in connection with their official tribal duties.

Any Tribal funds withdrawn for specific purposes by an employee shall be spent for those purposes only.

Funds withdrawn for pay, cost of travel and subsistence to attend any official tribal function shall be spent for those purposes only.

Funds withdrawn for any authorized tribal project or program are restricted to those purposes only.

In all cases, tribal and program funds not expended for authorized purposes must be repaid by the responsible official within five (5) working days after said failure. No violator may return to official duty until the Tribe is repaid in full. The President shall refer said cases of embezzlement or theft of Tribal or program funds to the appropriate law

enforcement agency.

2. Equipment. Employees shall be held accountable for all Tribal equipment entrusted to them in connection with conducting official business.
 - a. Motor vehicles. An employee shall not use or authorize the use of a tribally-owned or leased vehicle other than for official tribal purposes unless authorized by the Program Director.
 - b. Other Equipment. An employee shall not use or authorize the use of a tribally-owned or leased equipment other than for official tribal purposes unless authorized by the Program Director.

An employee shall not make false or fraudulent statements or claims which reflect discredit or loss of programs, goods, services or monies. The employee must exercise caution and sound judgment at all times.

D. Courtesy and Consideration of Others

Employees of the Northern Cheyenne Tribe must demonstrate courtesy, consideration, and promptness in dealing with the public while carrying out official responsibilities and in dealing with co-workers.

E. Gambling

Employees are not allowed to participate in any personal gambling activity during working hours.

F. Theft and Embezzlement

Any person terminated by the Tribe for theft or embezzlement of Tribal, program or federal funds and convicted (or pled guilty or its equivalent) in a court of competent jurisdiction shall not be rehired by the Tribe for two years after the date of conviction.

Any employee who has knowledge of or has suspicion that theft or embezzlement is occurring shall immediately report such knowledge to the President.

IV. Nepotism

The President, Tribal Council, any Board, Committee, or Commission members and all employees shall recuse themselves from any and all deliberations and decisions or otherwise influencing, an Immediate Family Member's employment status or the terms and conditions of their employment; provided, this policy does not prohibit such individuals from participating in policy deliberations and decisions or influencing policies that apply to a large group of Tribal employees.

The Tribe will not employ, in any position, Immediate Family Members of current employees if:

1. one directly supervises the other; or

2. they will be working in the same program where such has the potential for creating an adverse effect on supervision, morale, or involves potential conflicts of interest.

If employees that become Immediate Family Members after employment are in a supervisory position, they have an affirmative duty to report the new relationship to the Program Director within 10 days. They will be allowed 30 days to resolve the matter, either voluntarily or by reassignment of one of the employees, which must be approved by the Tribal President. If not resolved within 30 days, the Tribe will decide whether a change of employment of one or both employees is appropriate.

Employment applications shall indicate whether they are related to any employee in the program to which they are applying in order to determine eligibility for the position. If an applicant untruthfully answers a question concerning a relationship and the fact later becomes known, the employee will be subject to discipline.

SECTION 11 – DISCIPLINE AND TERMINATION

I. Disciplinary Procedures

A. Policy

In order to discipline or terminate an employee, there must be just cause. Discipline may be imposed for any just cause reason, including without limitation violation of the rules in this personnel manual.

All discipline will be documented in the employee's personnel file, with a copy provided to the employee.

Three years after the discipline was issued, it shall be removed from the personnel file.

Written warnings may be issued by the supervisor with approval from the Program Director.

Any disciplinary action beyond a written warning must be approved by the President. The President may review any relevant information when deciding whether to approve discipline, including without limitation the involved employee's personnel file.

B. Procedure

Discipline shall be commensurate with the offense committed.

Supervisors are encouraged to engage in informal counseling as much as is warranted before resorting to formal discipline.

The order and degree of disciplinary actions shall depend on the circumstances and is in the Tribe's discretion. Normally, discipline should be progressive, and proceed in the following order:

1. Informal Counseling. This form of discipline is one or more discussions between the supervisor and the employee.
2. Corrective Interview. This form of discipline is normally between the immediate supervisor and the employee during which the reasons for the corrective interview are described with specific suggestions for corrective action.
3. Written Warning. A written warning shall state the reasons for the warning with specific suggestions for corrective action.
4. Probation. Disciplinary probation may not exceed 90 calendar days. The probation notice must state specifically why the employee is being placed on probation and what criteria he or she must meet to be removed from probation. An employee may take annual leave during a disciplinary probationary period; however, the expiration period of the probation will be extended.
5. Demotion and/or reducing pay. The notice of demotion and/or reduction in pay must

state the reasons for such action.

6. Suspension. An employee may be suspended up to three (3) days. Suspension shall be with or without pay, in the Tribe's discretion.
7. Suspension Without Pay Pending Investigation. An employee may be suspended for up to 10 working days pending investigation of a written allegation(s). If the allegation is unfounded, the employee will be reinstated and will receive back pay for the period of time suspended pending investigation. If the allegation is found to be factual, the Tribe may impose additional disciplinary action up to and including termination.
8. Involuntary Termination. In the event of involuntary termination, a written notice of dismissal will be delivered to the employee setting forth the reasons and the effective date of the termination. If the employee is not available on the date of termination, notice shall be sent by certified mail to the employee's last known address and the post mark will become the effective date of termination.

II. Examples of Conduct Justifying Discipline or Termination

It is not possible to list all the forms of behavior that are considered unacceptable in the workplace, but the following are examples of misconduct that may result in disciplinary action or termination:

1. Falsification of employment or work records or information.
2. Recording the work time of another employee, allowing any other employee to record your work time, or allowing falsification of any time card.
3. Theft or the deliberate damage of any Tribal property or the property of any fellow employee or member.
4. Removing Tribal property from Tribal premises without prior authorization.
5. Unauthorized use of Tribal equipment, materials or facilities.
6. Violation of the drug and alcohol policy.
7. Threatening or intimidating or abusive or profane communication.
8. Fighting during working hours, or on premises owned, leased, or otherwise occupied by the Tribe.
9. Participating in excessive horseplay or practical jokes.
10. Carrying firearms or any other dangerous weapons, at any time, on premises owned or occupied by the Tribe unless authorized as part of an employee's job duties.
11. Engaging in criminal conduct whether or not related to job performance.
12. Insubordination, including but not limited to failure or refusal to obey the orders or instructions of any supervisor.
13. Excessive absences or tardiness.
14. Failing to notify the appropriate supervisor when unable to report to work.

15. An unreported absence on a scheduled workday.
16. Failing to obtain permission to leave work for any reason during normal working hours.
17. Failing to observe working schedules, including rest and lunch periods.
18. Sleeping on the job.
19. Excessive personal telephone calls during working hours.
20. Working overtime without authorization.
21. Extreme, unprofessional, or inappropriate styles of dress or hair while working, or which are unsafe or inappropriate for an employee's department.
22. Violating any safety, health or security policy, rule or procedure of the Tribe.
23. Discrimination, harassment or retaliation.
24. Being guilty of a felony, or a misdemeanor which has a bearing on an employee's job performance.
25. Violating any policy in this Personnel Manual.

Discipline may be based on circumstances not on this list.

III. Rehire After Involuntary Termination

Employees involuntarily terminated shall not be employed with the program from which they were terminated for a period of six months.

SECTION 12 – END OF EMPLOYMENT

I. Voluntary Terminations

A. Procedures

1. An employee planning to terminate employment should submit a written resignation to their supervisor two weeks in advance of the proposed termination date. The President may authorize a shorter period of notice due to extenuating circumstances or when in the best interest of the Tribe to do so.

Any employee who has submitted a resignation must perform his or her regular duties until the resignation date.

2. The last day worked by an employee will be considered the date of termination and the employee will be paid for all accrued annual leave.
3. If the employee is deceased, annual leave payout shall be made to the employee's designated beneficiary or estate.

II. Involuntary Terminations

In addition to termination for cause, the Tribe recognizes two forms of involuntary termination of employment initiated either by the employee or the Tribe.

A. Layoff

A layoff is an involuntary termination through no fault of the employee due to lack of funds or changes in Tribal organization, or temporary employment.

Layoff does not adversely affect eligibility for further employment.

Layoffs shall be made by written notice stating the cause and effective date of the layoff. To the extent possible, the employee shall be given at least two weeks notice of layoff.

When more than one employee is affected by a single layoff decision, the Program Director has sole discretion to determine which positions will be vacated, and should consider past job performance, seniority and veteran status when making such discretionary decision. The final decision must be approved by the Tribal President.

If a granting agency decreases or discontinues funding of a particular program, only those individuals whose salaries are paid from such funds will be terminated.

A regular employee in good standing but subject to layoff may be given an offer of reassignment to an open position within the same program for which the employee is qualified.

B. Abandonment of Position

Abandonment of position is when an employee does not attend work for three consecutive

working days and does not provide an acceptable excuse to the appropriate supervisor.

III. General Policies of Separation

A. General

All employees who terminate (voluntarily or involuntarily) must return all Tribal keys, equipment, supplies, and any other properties in their possession or control. The supervisor and exiting employee shall complete a check-out list to document and acknowledge the return and receipt of such property. After the check-out list is complete a final paycheck will be issued.

The supervisor shall contact the Human Resources Office immediately upon termination.

B. Involuntary Terminations

Involuntary terminations shall be documented by letter to the terminated employee sent to the employee's home address and, if possible, hand-delivered to the terminated employee in the work place.

C. Rehire

If an employee is rehired after a termination for cause (not layoff), he or she will begin as a new employee, including with no leave or seniority.

SECTION 13 – GRIEVANCES

I. Grievances and Appeals

A. Appeals Board

The Tribal Appeals Board (“TAB”) shall be appointed by the President and confirmed by the Tribal Council for specified terms.

The TAB shall consist of three members and five alternates. One of the three members shall be designated as the TAB Chair by the three members. If the Chair cannot participate in a grievance due to a conflict of interest, an alternative chair shall be identified by the Chair.

Members shall include program managers and supervisors, and Tribal employees who do not exercise supervisory authority. Three Appeals Board members will serve as a quorum to hear an appeal or grievance. Decisions are by majority vote.

A tribal attorney may advise the TAB about the grievance procedures as attorney for the Tribe, not the grievant.

B. Grievant

Employees who have passed the initial probationary period may file a grievance to challenge adverse actions directly affecting the employee’s employment. Employees serving their initial probationary period have no grievance rights.

The grievance rules set forth below are strictly construed in favor of the Tribe. If a grievant fails to comply with the grievance rules below, the grievance shall be dismissed.

C. Employment Actions Subject to the Grievance Process

The only actions which may be challenged in a grievance are the more severe forms of discipline of probation, demotion, reduction in salary, and suspension, involuntary termination and layoff, which are collectively referred to in this grievance procedure as “adverse action”.

D. Standard of Review

The grievant carries the burden of proof. In order to prevail, the grievant must show that there was no just cause for the discipline or involuntary termination. In the case of a layoff, the grievant must prove that the Tribe did not have a legitimate governmental interest (e.g., budgetary or reorganizational reasons) for the layoff. The standard is not whether the TAB would have taken the adverse action if they were in management’s position.

E. Prerequisite to Filing a Grievance

Before initiating a formal grievance, the grievant must make a good faith effort to resolve the adverse action by contacting the parties that took the adverse action and request that it be reversed.

F. Procedure to Initiate Grievance

In order to initiate a formal grievance, the grievant shall present a written grievance to one of the three TAB members within seven working days of the date the adverse action was communicated in writing to the grievant. The written grievance must (a) certify that the grievant has made a good faith effort to resolve the adverse action by contacting the parties that took the adverse action, (b) set forth in detail the reasons the grievant challenges the termination, and (c) state the relief requested. The recipient of the grievance will distribute the written grievance to the TAB.

G. Scheduling a Hearing

The Chair of the TAB will schedule a hearing to occur no less than five working days and no more than 15 calendar days after the TAB received the written grievance.

The Chair will provide a notice of the grievance to management and the grievant at least five working days before the hearing, in substantially the form of Appendix D, which states: the members of the TAB that will hear the matter; the date and time of the hearing; that failure of the grievant to appear at the hearing may result in dismissal; that the hearing is closed to the public; that the grievant is not entitled to have an attorney or other advocate present; the scope and question presented at the hearing; and that any physical evidence, such as documents, to be considered at the hearing must be delivered three days before the hearing.

H. Prejudice

Members of the TAB shall not participate in an appeals or grievance hearing when one or more of their Immediate Family Members is involved or if they are directly involved in the discipline or termination being challenged.

If a party to any grievance believes that a TAB member should be disqualified from participating in the grievance, an affidavit of prejudice must be filed with the TAB stating the facts and reasons for such belief at least five working days prior to the grievance hearing. If not filed at least five days prior to the grievance hearing, the right to object to the participation of a TAB member is waived.

An affidavit of prejudice shall be ruled on within three days of receipt. The remaining TAB members shall decide whether the other member is prejudiced within three days of receipt of the affidavit of prejudice. If they conclude prejudice exists, the member shall be replaced by an alternate. If an affidavit of prejudice is filed against the replacement member of the TAB, then the hearing date may need to be postponed to carry out the procedures in response to the second affidavit of prejudice.

I. Pre-Hearing Discovery

The employee has the right to all information pertaining to the discipline challenged that is held by the Tribe. In order to receive that information, the grievant must request it at least five working days before the hearing. The Tribe must produce it to the grievant at least two working days before the hearing.

J. Hearing Protocol

The TAB Chair shall chair the hearing and follow the rules in this Section 13. In the event a procedural question is not addressed by this Section 13, the Chair shall decide how to proceed based on principles of fairness to all parties, order and expedience.

Grievance hearings shall proceed as follows.

1. The Chair will ensure that each TAB member has a copy of the grievance. TAB will convene in executive session to review and consider any evidence submitted by the grievant or management. At least one person who issued the adverse action will serve as the Tribal management representative.
2. Next, the Chair will oversee introductions of the parties, read the written grievance out loud and explain the order of presentation in Step 3 below and the decision-making process, including the burden of proof, described above.
3. Next, the parties will present their position as follows:
 - a. grievant case in chief up to 30 minutes;
 - b. management case in chief up to 30 minutes;
 - c. grievant rebuttal up to 10 minutes;
 - d. management rebuttal up to 10 minutes.

The case in chief must be limited to the subject of the written grievance.

Evidence may include a statement, documentary evidence, or witness testimony.

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

Past misconduct of the grievant may be presented only if it is alleged to be part of the basis for the adverse action.

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

Non-parties are not allowed to be present during the grievance. Witnesses must remain out of the hearing area until called to testify. Each party is responsible for arranging attendance of their own witnesses. Each side will be given the opportunity to question any witness.

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

4. Next, the TAB will meet without the grievant, management or others present to decide whether the grievant met the burden of proof set forth above and, if so, what relief to grant. In the event the TAB determines that the grievant has not met the standard of review, the grievant will not be entitled to any relief.

In the event the TAB determines that the grievant has met the standard of review, the only relief that may be granted by the TAB is one or more of the following: (1) reversal of the discipline or termination challenged by the grievant; (2) reinstatement to the position from which the grievant was terminated; (3) back pay for the value of wages and health care premiums and benefits lost by the grievant during the time period grievant did not receive such sums due to the adverse action challenged by the grievant, subject to funding availability; and (4) a lesser form of discipline for the circumstances that led to the discipline or termination challenged by the grievant.

K. Final Decision

Within seven business days of the close of the hearing, a written decision of the TAB will be delivered to the grievant that states whether the grievant met the standard of review and what relief will be granted, if any.

The decision shall be final. There shall be no right to appeal the decision of the TAB, including no right to appeal to the Tribal Council.

L. Grievance Records

Copies of the written grievance and written decision shall be kept in the personnel folders maintained in the Human Resources Office. No other record of grievance need be maintained.

M. No Retaliation

Retaliation in response to the grievance is prohibited.

SECTION 14 – RECORDS MANAGEMENT

I. Employee Privacy Protection/Freedom of Information

- A. The Northern Cheyenne Tribe will maintain a single personnel file on each employee which will be kept in the Human Resources Office. Only the Human Resources Director (HR Director), the employee and those who have a supportable need to know will have access to the information in the file.
- B. Additional personal information will be released only upon written authorization of the employee. The statement will specify who is authorized to release the information, the type of information to be disclosed, to whom it may be disclosed, and the use which may be made of the information. The authorization statement will have a specific expiration date, not to exceed three months (90 days).
- C. Any employee has the right to examine their personnel file in the presence of the Human Resources Director (or their designee) at a mutually agreed upon time and place. An employee may be accompanied by another individual of their choice (there are no exceptions to this restriction).
- D. The inclusion of complaints and/or derogatory material in an employee's personnel file will be subject to the following conditions:
 - 1. The material must be shown to the employee or a copy provided to the employee prior to being placed in the personnel file.
 - 2. Any material not shown to an employee or a copy not provided to the employee within five (5) days of receipt may not be used as evidence in any grievance or disciplinary action against the employee.

E. Personnel Files

The Northern Cheyenne Tribe shall maintain a system of confidential personnel records. A separate personnel file shall be created at the time of employment and maintained for each employee. During the time of employment, all information pertaining to the employee shall be kept in their personnel file.

At the time of termination or separation, the personnel file shall be transferred to an inactive section and retained for three years.

All personnel files shall be kept under lock and key.

Personnel files are maintained for each employee. Personnel files are the property of the Tribe and the information contained therein may be shared by Tribal management as needed in the best interests of the Tribe. All personnel files shall be kept in the Human Resources Office. Employees must report any changes, such as address, phone number, or dependents, to the Human Resources Office by providing a completed IRS Form W-4 or other documentation requested by the Tribe.

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

Medical and drug and alcohol testing information shall be kept separate from the personnel files. The Tribe will safeguard such information from disclosure and will disclose that information only as required by law or if the employee provides consent to its release.

These rules apply to current and former employee personnel files.

Once per year, or if there are reasonable grounds for more frequent access, a current employee may review his or her personnel file by written request submitted to the Human Resources Director.

The personnel file shall be at the Human Resources Office and include at minimum:

1. Application for employment and any materials related to the application such as a resume, school transcript, reference letter or verification of prior employment.
2. Copies of any employment correspondence including notification of employment.
3. Current job description.
4. Record of all personnel evaluations including changes in job, income, grade, or tenure.
5. Record of all discipline not reversed through the grievance procedure.
6. Personnel action forms.
7. Letters/certificates of appreciation and commendation.
8. Personnel information sheets.
9. Letters of hiring and stipulations, including starting salary, scheduled probationary date, salary increases, benefits, evaluations, etc.
10. Copies of employee's driver's license, bonding, insurance or other certifications, for all employees driving vehicles as part of their employment.
11. Signed form indicating which keys have been issued to the employee.
12. Contract of Employment, if any.
13. A background check required or authorized by law.
14. Personnel Action Forms.
15. Signed statement that employee has read and agrees to abide by this Personnel

Manual.

F. Other Personnel Records

1. Applications for Employment for persons not hired shall be maintained for one year.
2. Time and Attendance and Leave Records: Time and attendance records shall be kept for all employees and shall be maintained for one year. Records shall also be kept of annual and sick leave and compensatory time earned and used. These will be kept in Payroll Records section of the Accounting Office until such time they become inactive. At that time they should be filed permanently in the employee's personnel file.

G. Employee Access

The above sections shall not prevent the individual employee or individual beneficiary from access to or right to examination of their file or history under the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act (5 U.S.C. 552a). The President or Tribal Administrator are authorized to establish verification and documentation procedures to entitle each individual employee to examine their own file. To see your personnel file, contact the Human Resources Director. You have the right to question the existence or accuracy of any item in your file. The employee may obtain copies of any information in the files.

H. References

Employment references are not provided by the Tribe. If written authorization is provided by the employee, Human Resources may provide the dates of the employee's employment, job title(s), and last rate of pay

APPENDIX A

Employee Acknowledgment

By signing below, I acknowledge:

I have received a copy of the Northern Cheyenne Tribe Personnel Manual and understand that it sets forth terms and conditions of my employment;

it is my responsibility to read and abide by the rules, policies and standards set forth in the Employee Handbook;

without limiting the foregoing, I specifically acknowledge that, in the event I am hired before completion of the background investigation or drug and alcohol test, my employment is conditioned on the results of that investigation and/or test being acceptable;

my employment with the Tribe is in accordance with these and other policies of the Tribe as they currently exist or as amended in the future;

this Manual does not constitute a contract or create contractual rights or constitute an express or implied waiver of the Tribe's sovereign immunity;

the policies and procedures in this Manual may be changed by the Tribe with or without notice;

except pursuant to an authorized employment contract, no oral or written statements or representations regarding my employment can alter the foregoing.

PRINT Employee Name

Employee Signature

Date

APPENDIX B

Drug and Alcohol Policy

Section A. Philosophy and Purpose

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

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

The consequences of a positive test result are outlined herein.

Section B. Prohibitions

1. The following conduct is prohibited:
 - a. The use, possession, sale, distribution or being under the influence of illegal drugs or alcohol while on Tribal property, while performing Tribal business in any location, or in a Tribal vehicle.
 - b. The use, possession, sale, distribution or being under the influence of illegal drugs or alcohol off the job when such use adversely affects the employee's on-the-job performance or behavior or the Tribe's reputation or ability to carry out Tribal services.
 - c. The use of prescription or over-the-counter medication that is contrary to its intended use.
 - d. The failure to pass a drug or alcohol test.
 - e. The failure to consent to a drug or alcohol test when required by the Tribe or the failure to consent to an inspection of property for purposes related to compliance with this policy. Either such failure shall be treated the same as the failure to pass a drug or alcohol test.
2. Except for employees who enter into a Continued Employment Plan (CEP) after a first violation pursuant to Section I, any employee who is found in violation of any policy prohibitions will be terminated.

Section C. Testing Categories

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

1. Pre-Employment. A statement reflecting this policy shall be included with all job announcements. Every applicant who is extended an offer of employment will be required, as a condition of employment, to submit to and pass a drug and alcohol test.

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

Any applicant who refuses to consent to the drug test, fails to comply with all testing procedures and requirements, or fails to pass the test will not be hired.

A positive test disqualifies an applicant for employment with the Tribe for a period of 60 days from the date of the positive test. Human Resources shall dispose of records of positive drug tests that occurred more than 60 days prior.

2. Post-Accident Testing. An employee will be required to submit to a drug and alcohol test if the employee suffers a reportable injury as a result of an on-the-job accident or the employee's job performance, actions or conduct either contributed to an accident or reportable injury or cannot be completely discounted as a contributing factor to an accident.

Subject to the availability of the testing facility, the drug and alcohol test should be performed as soon as possible after the accident.

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

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

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

As soon as possible, the Program Manager must complete a Reasonable Suspicion Report form, attached to this Policy as Appendix C.

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

4. Random. At least four times per year, at least 10% of the employees will be selected randomly and subjected to drug and alcohol testing. The Human Resources Manager will provide a complete list of employees to an outside, non-Tribal entity to randomly select employees for drug and alcohol testing.

Upon receipt of the list, the Human Resources Manager will coordinate with the Program Managers to schedule the testing in a manner that will minimize interruption to the workplace.

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

5. Follow-up. An employee who is returning to duty in accordance with a Continued Employment Plan will be subject to unannounced, unscheduled testing for no more than 12 months. The Human Resources Manager and Department Director or Manager shall ensure that the Continued Employment Plan is followed.
6. Other. The Tribe may order testing of the entire workforce at any time. Different or additional testing procedures may be applied to certain positions due to safety or other needs. Individuals who are offered such positions will be notified of the special drug and alcohol testing procedures applicable to that position.

Section D. General Testing Procedures

The below procedures will be followed in testing:

1. Except in the case of random drug tests, which are overseen by the Human Resources Manager, the Program Manager shall inform the Human Resources Manager in writing of any test, including the name of the employee and the date and reason for the test, as soon as practicable.
2. The Program Manager shall contact the testing facility to schedule a test.
3. Except for pre-employment testing, the Tribe will provide transportation to and from the specimen collection site and ensure that the employee is transported home following testing. If possible, transportation should be provided by two Tribal representatives.
4. Applicants for initial employment and employees subject to follow-up testing in accordance with a Continued Employment Plan will provide their own transportation to and from the testing facility.
5. The testing facility will use procedures that will ensure objectivity and that the results of all specimens are properly matched with the proper specimen provider.
6. All specimens with an initial positive test result for both applicants and employees will be maintained by the testing facility for at least seven days in case an appeal is filed.
7. A positive test result of any applicant or employee will be communicated by the testing facility to the Human Resources Manager only.
8. The Human Resources Manager will communicate the positive test result to the involved Program Manager and the Program Manager shall communicate the positive test result to the applicant or employee as soon as possible and will record the date and time of such communication. Communication may be oral but should be followed up in writing.
9. All information regarding test results, rehabilitation, and counseling will be treated by the testing facility and the Tribe as confidential and placed by the Human Resources

Manager in the applicant's or employee's medical file and kept separate from all other personnel-related data. The information will only be shared by the Human Resources Manager with the applicant or employee being tested and on a need to know basis with Tribal management personnel.

10. All costs of testing will be paid by the Tribe except in the case of appeal as set forth below.
11. All time dedicated by an employee to testing, including transportation to and from the testing facility, is paid time.
12. Time off work while test results are generated, any investigation is occurring, or during the pendency of an appeal, may be paid in the discretion of the Program Manager.

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

The use of drugs lawfully obtained and properly used is permitted. Any employee taking prescribed medication or over-the-counter-drugs that may impair his or her ability to work safely or effectively, including without limitation the operation of motor vehicles or heavy equipment, must notify the Human Resources Manager prior to beginning work. Failure to do so may result in discipline, up to and including termination.

Section F. Peyote Use

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

Section G. Inspections

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

Section H. Required Notification of Conviction

Employees are required to notify the Program Director of any drug or alcohol-related conviction no later than 5 calendar days after such conviction. If required, upon receiving notice of such conviction, the Program Director shall provide written notification to the governmental agency for each grant on which the convicted employee was working.

Section I. Consequences of the First Positive Test Result

Any employee who violates one of the prohibitions in Section B for the first time is subject to termination unless the employee enters into and abides by all terms and conditions of a Continued Employment Plan (CEP). Refusal by the employee to agree, or failure by the

employee to comply, with all terms and conditions of the CEP will result in the employee's termination.

The CEP shall include the following requirements:

1. Acknowledgment of the positive drug or alcohol test.
2. Agreement by the employee to be assessed by a drug or alcohol counselor identified by the Tribe.
3. Agreement by the employee to authorize his or her counselor and any treatment facility staff to discuss and provide records about any findings, recommendations and treatment with the Human Resource Manager and Program Manager.
4. Participation by the employee in all treatment recommended by the counselor, which may include referral to an in-patient or out-patient rehabilitation facility as well as all follow up treatment recommendations, such as ongoing counseling or a support group.
5. Agreement that all costs of treatment are the financial responsibility of the employee, provided that, in the discretion of the Program Director, the costs of treatment may be paid by the Tribe.
6. Agreement by the employee to abstain from alcohol and drugs, as required by the counselor.
7. Acknowledgment that another positive test result will result in immediate termination.
8. Agreement by the employee to unannounced, unscheduled testing for up to 12 months following the employee's return to work.

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

In the Program Manager's discretion, a leave of absence may be granted to employees who enter into a CEP.

Consistent with the Tribe's Employment Handbook, the Tribe shall retain records for three years from the date of the CEP or positive drug and alcohol test.

Section J. Appeal Procedure

In the event of a positive test result, within three working days:

the employee may request in writing that the person in charge of testing at the testing facility retest the original specimen; and

the employee may provide a written explanation to the Human Resources Manager for the positive drug test, such as proof that the positive drug test was the result of consumption of a prescription drug as directed by the employee's physician.

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

The employee is responsible for all costs associated with the additional test. In the event of an employment applicant who fails a test, there is no appeal right. The Tribe, in its discretion, may opt to retest the original sample.

APPENDIX C

Reasonable Suspicion Report

Date: _____

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

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

Details of Accident (if applicable):

Witnesses (attach any witness statements):

Signature of Department Director or Manager: _____

Print Name and Title: _____

APPENDIX D

Notice of Grievance

To: _____
[Grievant]

And To: _____
[Tribal Administrator]

And To: _____
[Human Resources Director]

Place and Time. The grievance filed by [name of grievant] is scheduled for a hearing at:

_____ and _____
[location] [time and date]

Dismissal for Non-Attendance. If the grievant does not appear for the hearing, the grievance may be dismissed.

No advocate. The grievant may not be represented by an attorney or other advocate.

Closed hearing. The grievance hearing will be closed to the public.

Scope. The hearing will be limited to the scope of the written grievance.

Question presented. The hearing will only address whether the challenged discipline or termination is supported by just cause (or in the case of a layoff, whether the Tribe’s decision was supported by a legitimate governmental interest (e.g., budgetary or reorganizational reasons) for the layoff) and, if not, the appropriate relief.

Deadline for Documentary Evidence. Any documentary or other physical evidence that the grievant or management wishes the Tribal Appeals Board to consider must be delivered by regular mail or in-person to the Tribal Appeals Board at least three business days before the grievance hearing. Any evidence not delivered by mail or hand-delivered by three business days before the hearing will not be considered. Electronic delivery of evidence is not allowed.

The Tribal Appeals Board members who will hear this matter are:

A copy of this notice has been provided to the Tribal Appeals Board.

Chair, Tribal Appeals Board

Date