

# **The Confederated Tribes of the Colville Reservation**



## **Employee Policy Manual**

**2015**

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## **CHAPTER 1 GENERAL POLICIES**

### **101 Purpose and Intent**

As an employee, welcome to the important work of the Confederated Tribes of the Colville Reservation (the Tribes). The Tribes is comprised of employees dedicated to high standards of excellence and quality. Employees are an important part of the work of tribal government. The Tribes is a special place which is enhanced by the hard work and dedication of all employees.

The Tribes' values, traditions and customs influence the terms and conditions of employment and assist decision makers in creating and preserving a workplace which is fair for employees and maximizes the productivity necessary to serve the members of the Tribes and its dependent communities.

The intent of this manual is to acquaint our employees with aspects of employment at the Tribes and to facilitate orientation. Statements in the Manual are not promises of specific treatment. Instead, this Manual summarizes various benefits, policies and procedures that apply to employees of the Tribes.

This Manual is not intended to create or to be construed to imply or otherwise create an expressed or implied contract or agreement relating to duration or any other term or condition of employment or benefits.

The Tribes, through the Colville Business Council, reserves the right to change, interpret, withdraw or add to the benefits, terms and conditions of employment at its sole discretion. When changes in policy do occur they will be communicated to all employees via existing communication channels. This Manual may be revised periodically but will not be updated every time a change is made. If any information in this Manual is in conflict with plan descriptions or information contained in official Tribe bulletins, the information in those documents shall govern. No provision contained in this Manual may be revised or suspended by any oral statements made by supervisors or anyone in or outside our employ, including the Business Council. This Manual can only be modified in writing with the approval of the Colville Business Council. This manual is approved by Resolution 2015-184 which supersedes and replaces any prior manuals and addendums approved for general Tribal Employment use.

### **102 Availability of Manual**

All employees will be given a complete and current version of this manual upon hire or whenever significant revisions are made. Supervisors are responsible for ensuring their employees receive a copy of any revisions or updates. All employees are responsible for familiarizing themselves with its contents and must sign a statement indicating that they have received the manual. Original signed statements will be retained in the employee's personnel file in the Human Resources office. Managers and supervisors will receive training in the use of the manual on an annual basis, or when extensive changes are made. Informational sessions on the manual will also be provided for employees to help them better understand its contents.

### **103 Organization of Operation and Chain of Command**

The Tribes' government programs are set up and will be managed according to the most recent and approved organizational chart. Council approves Reorganizations and Organizational Charts with each budget cycle but the ED has the authority to approve minor changes to organizational charts. In general, the Executive Director (ED) reports to the Colville Business Council (CBC), Department Directors report to the Executive Director, and Program Managers report to Department Directors. Supervisors of sub-units within programs report to Program Managers. Employees report to their immediate supervisors. All employees will follow the chain of command in either direction (up and down) for approvals or other actions required by this policy unless specifically provided otherwise.

The Executive Director has direct supervisory authority over the employees he/she supervises and general supervisory authority over all employees. In administering Tribal policies, the ED has authority to establish appropriate procedures for their implementation and to delegate authority to subordinates as he/she deems appropriate.

An employee in any supervisor capacity may delegate appropriate tasks and responsibilities to his/her subordinates, but remains accountable to his/her own superiors for all delegated duties.

All employees shall follow their chain of command to attempt to resolve personnel issues starting at the lowest level possible. When an employee perceives a problem with another employee which cannot be resolved by informal and respectful discussions between the two, the employee shall immediately raise the issue directly with his or her immediate supervisor, or the other employee's immediate supervisor. Supervisors will conduct informal meetings and will document the discussion, avenues researched, and the outcome. In such instances where the conduct of the immediate supervisor is such that the employee does not feel comfortable discussing the issue with the immediate supervisor, or the perceived problem is with a supervisor, the employee may address the issue with the next highest person in the chain of command. Strict standards of confidentiality shall be adhered to in all matters of this policy and by all parties.

### **104 Standard Operating Procedures Within Departments (SOP's)**

Departments or programs may establish Standard Operating Procedures that are consistent with this Manual. Standard Operating Procedures are the documented processes that a program has in place to ensure services and products are delivered every time. After Administrative Review, the Executive Director has authority to approve Standard Operating Procedures. Upon approval, it is the Supervisors responsibility to ensure that each applicable employee receives the Standard Operating Procedures.

### **105 Sovereign Immunity**

Nothing in this manual constitutes a waiver of the Tribes' sovereign immunity.

## **106 Job Performance Duties in General**

Each employee shall provide the best service possible to all individuals, recognizing the importance of everyone's contributions to the overall effectiveness of the tribal government. Employees shall actively participate in helping the organization reach the Tribes' programmatic goals. All employees have a duty to protect tribal resources, including its natural resources, financial resources, and its people, to promote the self-sufficiency of the tribal organization and individuals, and to model responsible behaviors in the workplace and reservation communities.

All employees shall recognize the importance of diversity and the importance of human relationships and to this end shall treat members, guests, and employees with equal respect and dignity.

All employees at all times shall perform their duties professionally and in a timely manner, with accountability and integrity. All employees shall maintain positive, productive and safe work habits, including but not limited to punctuality, timely responses to directives by supervisors, and production of quality work. Employees shall work cooperatively with each other and share relevant information in order to complete job duties or directives.

All employees shall practice good judgment, be honest, and conduct themselves in an ethical manner at all times.

## **107 Colville Employment Laws and Rules**

The Tribes is a sovereign which has exercised its sovereignty by defining the terms and conditions of employment for employees. The Tribes has defined some of the terms and conditions of employment through various laws and through this Manual and other employment related documents.

Employees may get better acquainted with the Tribes laws which impact the terms and conditions of employment by visiting the Tribes website which contains those laws.

As an exercise of its sovereignty, the Tribes may voluntarily meet certain federal employment standards. The Tribes is not legally bound by these laws and does not waive its inherent sovereign immunity in agreeing to meet any part of these standards. The Tribes is not required to provide employees any remedy, other than what this Manual provides, for any alleged breach of these standards.

## **CHAPTER 2 LEAVE AND TIME OFF FROM WORK**

### **201 Holidays**

All employees in paid status are eligible to receive paid holidays; seasonal employees are eligible for paid holidays within their work season; part-time employees are eligible for paid holidays which fall on their usual work schedule; short notice employees are not eligible to receive paid holidays.

### **202 Recognized Holidays**

Holidays will be observed on the day recognized as a holiday by the United States Government. If a holiday falls on a Saturday, it will be observed on the Friday before the holiday. If a holiday falls on a Sunday it will be on the Monday following the holiday. No other holidays will be allowed.

New Year's Day	January 1
Martin Luther King Day	3 <sup>rd</sup> Monday in January
President's Day	3 <sup>rd</sup> Monday in February
Memorial Day	Last Monday in May
CTCR Executive Order	July 03
Independence Day	July 04
Labor Day	1 <sup>st</sup> Monday in September
Native American Day	4 <sup>th</sup> Friday in September
Veteran's Day	November 11
Thanksgiving	4 <sup>th</sup> Thursday and Friday in November
Christmas	December 25

Some departments may, through standard operating procedures, designate substitute days as holidays or appropriate compensation for holidays worked.

### **203 Vacation Leave**

Full-time regular employees will be eligible for accrued vacation based on their length of employment with the Tribes and associated tribal entities. Part-time and seasonal employees will be eligible for vacation using the same length-of-service schedule, but their accrual will be determined by their paid hours. Temporary employees and short notice employees will not be eligible for vacation. It is the employee's responsibility to notify the Benefits Office when he or she qualifies for additional vacation or if there is an error regarding leave. Supervisors and managers may not unreasonably refuse requests for earned and accrued vacation.

Employees promoted or hired into different positions without a break in employment will retain earned calendar year vacation leave. Below are general guidelines on how vacation is administered. In situations where positions are hard to fill and with the final approval of the Executive Director, different vacation amounts may be negotiated and awarded.

<u>Length of Service</u>	<u>Vacation Leave Earned</u>	<u>New Hires' First Year</u>
241 months and over	200 hours (5 weeks)	7.6923 hours/pay period
121 months to 240 months	160 hours (4 weeks)	6.1538 hours/pay period
61 months to 120 months	120 hours (3 weeks)	4.6154 hours/pay period
25 months to 60 months	80 hours (2 weeks)	3.0769 hours/pay period
13 months to 24 months	60 hours (1.5 weeks)	2.3077 hours/pay period
0 months to 12 months	40 hours (1 week)	1.5385 hours/pay period

Except for 200 hours vacation that employees may carry over into the next calendar year, vacation must be used or lost each calendar year. New employees may not use vacation until satisfactory completion of their introductory period. Employees promoted or hired into different positions may use vacation accrued in their prior positions with approval of the immediate supervisor.

Employees are encouraged to take at least one full-week block of vacation each calendar year. Generally, vacation time should be requested on the Leave Application Form no less than one week in advance of the first requested vacation day. Managers and supervisors are not required to approve requests if doing so would unreasonably disrupt the effective operation of the program or office.

Upon separation of employment, employees will be paid all vested, unused vacation only. Except as agreed to in a written agreement for contract employees the following will apply: vacation leave will be provided per contract year, vacation leave does not renew when an employee takes a new job within the organization in the middle of a contract year, and vacation leave is prorated based on the contract year.

## **204 Sick Leave**

Sick leave may be used when an employee or an employee's legal dependents—or spouse requires health care or medical attention unless it's a qualifying event for the employee under the Colville Family Medical Leave in which the scope of applicable relationships may broaden. Employees will make every reasonable effort to notify their immediate supervisor when illness or injury will prevent them from reporting to work. Employees must provide notice from a primary care provider for: (a) absences of three consecutive shifts or longer; (b) medical release after extended illness, injury or surgery. It is the responsibility of the employee who has a medical condition requiring changes in work duties to notify his or her supervisor and provide a physician's release to Human Resources describing their limitations. Employees must speak personally to their supervisor or manager when requesting leave unless a verified emergency exists to prevent such communication. Employees who fail to follow this requirement shall take leave without pay for the hours missed or may be considered Absent Without Leave depending on the circumstances of the events. Employees who show up for work with potentially contagious conditions (i.e., cold or flu) may be sent home at the discretion of their manager or supervisor. Supervisors who have employees who are sick for more than three consecutive days must notify Human Resources.

Full-time regular employees will accrue sick leave at the rate of two (2) hours per week.

Part-time employees will accrue sick leave at the rate of one (1) hour per week. New employees may not use sick leave until satisfactory completion of their introductory period. Employees promoted or hired into different positions may use sick leave accrued in their prior positions with approval of the immediate supervisor. Sick leave is not convertible to any other leave and will not be paid at separation. Vacation leave may be used when sick leave is exhausted. Sick leave slips shall be completed by the employee no later than two working days after the employee returns to work; otherwise, it may be considered leave without pay, at the discretion of the manager or supervisor.

## **205 Jury or Witness Leave**

Employees who are required to report for jury duty or are subpoenaed as a witness in a court system shall be entitled to paid leave. Employees shall receive their regular pay but jury fees received shall be deposited to the program that paid the jury leave. A copy of the summons or subpoena and record of payment must be submitted to the immediate supervisor to be attached to the time sheet for that pay period. Employees on paid jury duty or subpoenaed as a witness must report to work during periods when excused from such service as immediate supervisor deems cost-effective. Employees excused from jury duty before the end of the work day must report back to work that day. Time spent on jury duty will be credited as hours worked for computing sick leave, but not for overtime purposes. Employees may keep mileage reimbursements. Witness Leave is not available when the case could benefit the employee, directly or indirectly.

## **206 Bereavement Leave**

Employees will be granted paid time off as bereavement leave when they experience the death of the employee's immediate family or other individuals as identified. Employees may also request vacation, traditional or other leave-type as needed.

### **1. Immediate Family**

Employees will be eligible for 24 hours of paid bereavement leave each time there is a death of the employee's immediate family. For these purposes, immediate family is defined as spouse, child, parent, sibling, grandparent, grandchild, in-laws and step or foster child.

### **2. Relative Other Than Immediate Family**

Employees will be eligible for up to 16 hours of paid bereavement leave each time there is a death of the employee's extended family. For these purposes, extended family is defined as a relative by blood or marriage.

### **3. Program Co-Worker**

In the event of a program co-worker's death, employees may be granted a maximum of one workday with pay and with the approval of the immediate supervisor.

### **4. Funeral Participation**

Employees requested to participate in funerals during work hours may be granted up to 24 hours paid leave. Leave will be granted to employees serving the family in activities necessary to carry out the funeral services and specifically requested by the family. Examples include, but are not limited to: cook, singer, drummer, speaker, grave digger, altar server, pallbearer, and dressing of the deceased.

Employees will be expected to work as much as possible or use their own leave when not actually participating in funeral activities as requested. Leave may not be granted if the employee's absence prevents the program from carrying out its critical responsibilities.

**207 Administrative Leave**

At the discretion of the Executive Director, employees may be granted Administrative Leave at times which may be paid or unpaid. Administrative Leave is not an employee right and will only be granted to those employees in work status at the time the leave is granted. The Executive Director may require that an employee take administrative leave related to a personnel matter.

**208 Leave Without Pay and Leave of Absence**

Employees are expected to use their leave sensibly and plan for the full year, but employees may request leave without pay with the approval of their immediate supervisor after all other leave is exhausted and an emergency situation exists.

Leave without pay will be approved only when there is reasonable assurance the employee will be available to return to regular employment at the end of the leave period. Leave without pay will be granted only when such leave can be scheduled without adversely affecting the program. Leave without pay shall end when the employee is able to return to work or the situation is no longer emergent, even if time remains on the pre-approved schedule. Failure to return to work when leave without pay expires, or working for another employer during such leave, may result in separation of employment.

Leave without pay shall not be approved for a period in excess of thirty (30) calendar days unless approved by the Executive Director. Employees on leave without pay will not accrue leave of any type. Employees on leave without pay are responsible for making pre-leave arrangements with Benefits to continue employee-paid coverage as soon as reasonably possible. Hours on leave without pay will not be counted towards years of service. Program managers shall notify Benefits of all such leave.

**209 Colville Family Medical Leave (CFML)**

The Tribes is committed to providing eligible employees with leave afforded under the Colville Family and Medical Leave (CFML), which provides employees with job protected unpaid leave for up to 12 workweeks in a rolling 12 month period under the following qualifying circumstances: 1) employee's serious health condition, 2) birth, adoption, or placement of a child with the employee for foster care and to care for their own newborn child, 3) employee is needed to care for a family member (i.e., child, spouse or parent with a serious health condition), or 4) incapacity due to pregnancy, prenatal medical care or childbirth.

### **Eligibility**

To be eligible for the CFML under the following circumstances, an employee must have worked for the Tribes for a total of 12 months and at least 1,250 hours over the previous 12 months. The 12 month period in the aforementioned criteria will be defined as the immediate 12 months prior to the need for leave. If an employee is eligible for CFML, accumulated paid leave time must be used prior to Leave Without Pay. CFML may commence at the same time any other Tribal leave commences, regardless of whether leave taken is paid or unpaid and the two run concurrently.

### **Employee Responsibilities**

To apply for CFML, an employee must provide the Tribes with at least 30 calendar days advance notice before CFML is to begin. Where such notice is not possible, the employee must provide notice as soon as practicable (i.e. one to two business days following the employee learning about the need to take leave). All forms are available in Human Resources, including the Colville Family Medical Leave Request form and the Colville Certification of Health Care Provider form must be submitted within 15 calendar days of the CFML notice in order for the leave to be treated as authorized under the CFML. The failure to provide these forms within the timeframes identified will result in the denial of CFML. Forms with missing incomplete or unclear information will not be accepted. All forms shall be submitted to Human Resources for consideration.

### **Protection of Health Insurance Benefits**

While on CFML, an employee's health insurance coverage will be maintained in the same manner as during the employee's active employment status. Employees are responsible for paying their share of health insurance premiums while on leave. Employees, who do not return from CFML, may be required to pay for the health insurance premiums that were paid on behalf of the employee while they were on CFML.

### **Return to Work**

Upon returning from leave, the employees who take CFML for a serious health condition must submit sufficient documentation from their healthcare provider, stating that they can fulfill the requirements of their position. Employees who do not provide this documentation will not be permitted to return to work. Employees returning from CFML will be restored to the employee's original job or to an equivalent job.

### **Military Family Leave under the CFML**

The CFML also provides job protected unpaid leave for up to a total of 26 workweeks of leave during a 12 month period for an eligible employee who is the spouse, son, daughter, parent or next of kin of a covered service member in the Armed Forces. This leave will only be available during a rolling 12 month period. Those employees taking CFML for covered service members must provide Human Resources with sufficient proof of eligibility for this leave and the requisite certification issued by a health care provider stating that the service member is being cared for by the employee.

In addition, eligible employees with a spouse, son, daughter or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies (i.e. short notice deployment; attending certain military events, etc.). Certification of Qualifying Exigency for Military Family must be submitted to Human Resources to qualify for the leave entitlement.

## **210 Military Leave**

The Tribes supports those who serve in the armed forces. In keeping with this commitment, employees who must be absent from work for military service are entitled to take a military leave of absence for a maximum leave of 5 years. This leave will be unpaid. When an employee's military leave ends, that employee will be reinstated to the position he or she would have held if continuously employed.

Employees who are called to military service must tell their supervisors as soon as possible that they will need to take military leave. An employee whose military service has ended must return to work or inform the Tribes that he or she wants to be reinstated in accordance with these guidelines:

1. For a leave of 30 or fewer days, the employee must report back to work on the first regularly scheduled workday after completing military service, allowing for travel time.
2. For a leave of 31 to 180 days, the employee must request reinstatement within 14 days after military service ends and report back to work on the first scheduled workday after being notified of reinstatement.
3. For a leave of 181 days or more, the employee must request reinstatement within 90 days after military service ends and report back to work on the first scheduled workday after being notified of reinstatement.

Honorably Discharged Veterans are authorized by council resolution #2016-235 to utilize paid administrative leave benefits to participate in Military activities such as Veteran's Day assemblies in schools, Honor Guard, Stand Downs, etc.

## **211 Traditional Leave**

Employees in full-time regular, part-time, or seasonal status will be granted 24 hours paid Traditional Leave each calendar year. Requests for paid Traditional Leave must be approved by the Immediate Supervisor and must be requested on the approved leave form as far in advance as possible. In recognition of the diversity of our employees, "Traditional Leave" is given on the basis that the Tribes accept the culture, traditions and diversity of individuals whether that of the employee's culture or of the Tribes. This leave is not paid upon separation or after resignation or when a termination notice has been provided.

## **212 Employee Wellness**

The Tribes recognizes the importance of employee good health and wellness and provides each full time, part time, and seasonal employee, with four hours of paid leave per calendar year to have an annual physical. Leave slips for this purpose shall be

completed no less than one week in advance and approved by the supervisor and verification of the physical exam must be provided for the employee's Benefits file. Employees may have up to three, one hour breaks per week for exercise programs (including lunch) if approved by their immediate supervisor.

### **213 Absent Without Leave**

Employees who are denied leave by their supervisors, fail to call in absent for their shift within one hour after their shift begins, and who nonetheless take leave of up to three consecutive days will be recorded as Absent Without Leave (AWOL). Employees who fail to receive approval for any leave taken (of up to three consecutive days) as required by these policies and procedures will be recorded as AWOL.

- First offense: 5 day suspension.
- Second offense within 12 month period: 10 day suspension
- Third offense within 12 month period: Dismissal

### **214 Donated Leave**

There are times where planning and preparing are not sufficient for health emergencies that may arise. In those instances, vacation leave and sick leave may be donated to another employee if the following criteria are met:

- Recipient has been deemed to have a serious health condition that is consistent with Colville Family Medical Leave and recorded in Human Resources as such. For the purposes of Donated Leave, maternity and paternity leave are not acceptable reasons.
- All sick and vacation leave must be drawn down.
- Must receive approval by the donor's Program Manager and recipient's Program Manager in conjunction with Human Resources.
- Broadcasts requesting Donated Leave must be requested by Human Resources.
- Donated leave shall not exceed 12 weeks or beyond the duration of the serious health condition, whichever is sooner. Donated leave that surpasses the length of leave allowed will be returned to the donor. A leave recipient may use donated leave only for the purposes related to the medical emergency for which the leave recipient was approved.
- Intermittent leave donation requests will be reviewed on a case-by-case basis.
- Human Resources reserve the right to verify the medical need throughout the duration of the donated leave being utilized.

Recipients of this leave option and supervisors are expected to utilize it appropriately and with good judgment.

Donated leave is not a guaranteed option or a right. Employees are eligible for donated leave one time per rolling year. However, there may be situations where employees are not afforded this option due to extenuating circumstances.

### **215 Tribal Employee Volunteer Program (TEVP) Leave**

Family and community service are important to the Tribes. The Tribes recognizes the benefits of investing in our youth by teaching in the areas of culture, education, and

coaching sports. The employee cannot receive additional compensation for their services. TEVP is a discretionary program subject to application, approval, and eligibility. The following criteria must be met to be considered:

- Employee must be in good standing.
- Employee must contribute 8 hours of their own vacation or traditional leave in order to receive up to 32 hours of TEVP leave.
- Must be an approved activity.
- Employee must fulfill all requirements of the agency and be accepted by the agency as a volunteer.
- Employees must conduct themselves professionally, appropriately, legally, and ethically during their volunteer service.

TEVP Leave will expire after 12 months. Employees can be approved on a rolling year basis. Applications should be submitted in Human Resources.

## **CHAPTER 3 EMPLOYMENT**

### **301 Hiring**

The Tribes supports equal opportunity and chooses not to discriminate based on race, religion, national origin, age, sexual orientation, gender, or disability in employment related decisions. Simultaneously the Tribes is committed to leveraging the significant talents of its members and other persons within its community.

### **302 Preference**

#### **Tribal Preference**

The Tribes leverage the talents of its members and individuals within the community by and through this preference policy. Preference shall apply in all aspects of employment (hiring, training, layoffs, promotions, reduction-in-force, reorganization, etc.) by selecting the person who is highest on the following list:

First preference: Colville Tribal Members

Second preference: First Line Colville Descendants

Third preference: Spouses or guardians/custodians of Colville Tribal Members

Fourth preference: Members of other tribes

The above preference list is utilized when a candidate or employee meets the minimum qualifications set forth in the job description. If there is more than one person to choose from in a category, the best candidate within the category will be selected.

The following examples will assist in applying this policy:

If there is a Colville member who meets the minimum qualifications of the job and other applicants who are not Colville members have more experience, the Colville member, as a general rule, will be hired or promoted.

If there are two or more Colville members who meet the minimum qualifications of the job, the Colville member who is the best candidate will be selected.

If there is a Colville member who meets the minimum qualifications of a job, the Colville member will typically be hired or promoted.

The Colville Business Council may waive Indian Preference by resolution.

#### **Veteran's Preference**

The selection process is impacted by an applicant's or employee's veteran status. Veterans will receive extra consideration in the selection process. Extra consideration may include, but is not limited to, an award of extra points in the selection process.

### **303 Employment Classifications**

Employees for the Tribes will be one of the following, depending upon the nature and duties of their positions, and will be hired as follows:

**303.1 Full-Time Employees** work at least 30-hours a week and the Tribes have a reasonable expectation that they will continue to do so and are eligible for benefits.

**303.2 Part-time Employees** work a regularly-scheduled week of less than 30 hours and the Tribes has a reasonable expectation that they will continue to do so and are eligible for limited benefits.

**303.3 Temporary Employees** may work a varied schedule and in most cases an employee who is hired on a temporary basis can expect to work in that position for a maximum of sixty (60) days unless an extension is approved by the Department Director and Human Resources in advance. Temporary employees are not eligible for leave but are eligible for medical and dental coverage after 60 days of employment if they work an average of 30 hours or more per week during the length of their employment or if required by applicable law. The immediate supervisor may screen and recommend an applicant from the referral list according to the minimum qualifications as specified on the job description with the HR Director or designee's approval.

**303.4 Seasonal Employees** are hired for seasonal occupations, and may receive a prorated amount of benefits and leave.

**303.5 Short Notice Employees** (formerly known as On-call Employees) are eligible to be placed in an employee pool for certain tasks and who are expected to be available on short notice to perform these duties. These employees understand that their work hours will be difficult to predict and the Tribes recognizes that a person may reasonably not be able to fulfill a "call" to work. Short Notice employees who decline or fail to respond to a call to work 3 times within a 90 day period will be separated from employment. These employees are not eligible for leave but they will be eligible for medical and dental coverage after 60 days of employment if they work an average of 30 hours or more per week during the length of their employment or if required by applicable law. The "Short Notice" pool will be developed by the Human Resources Office at the direction of the Program Manager or designee. The HR Director or designee's approval of the selection is required. Indian preference will apply in scheduling.

**303.6 Contract Employees** are employees who have a written contract which defines the terms and conditions of employment between the Tribes and the Contract Employee. Contract Employees will be hired through the regular hiring process unless directed by Colville Business Council to recruit for such talent. The offer of employment is not final until the contract has been approved by the Colville Business Council or designee.

### **304 Hiring Process**

When a position becomes vacant for any reason, the manager of the program with the vacancy will complete a Notice of Position Vacancy Packet. Human Resources staff will work with the manager to finalize the job description and job announcement in order to advertise the position. Human Resources assist departments in developing and modifying job descriptions. In order to reduce risk of liability to the Tribes, Human Resources will ensure the final job description complies with the appropriate classification, wages, and physical requirements. If a manager intends to create a new position, the manager will work with HR to develop the position description and pay range. New position descriptions and pay must be proposed in writing by HR and approved by signature of the Executive Director. Immediately upon such approval, HR will advertise the position.

Typically the following rules will be followed in hiring and transfers of candidates for employment and employees:

- Vacancies may be filled by competitive placement, non-competitive placement, transfer, demotion, promotion, or use of a training program.
- Applicant Screening Process – HR will determine which applicants satisfy minimum qualifications, conditions of rehire, and physical requirements of the position applied for. In cases where concerns regarding prior employment history, references, potential nepotism, inaccurate information in the application, prior convictions or arrests (when applicable), unprofessional behavior in the hiring process, or any other circumstance that may impact fitness for hire, those concerns will be discussed with the interview panel. Such concerns will not prohibit an applicant from being offered an interview.

Further, the Interview Board shall screen out applicants if the applicant's hire would violate any Tribal policy, or if they are disbarred, excluded, or ineligible to participate in a federal program, or have been convicted of certain crimes affecting their fitness for requirements of the position applied for.

Final selection of an applicant by the Interview Board will be based, among other things, upon satisfactory employment record, supporting job references, meeting minimum qualifications, possessing the physical capabilities to perform the essential functions of the position, providing accurate and complete information on the application and at the interview, passing applicable background and driving clearances, responding to job interview/job offers in a timely manner, passing all required health or drug screening, and remaining in good standing with the Tribes throughout the application, interview, and hiring processes.

- Interview Board – The board must be fair, ethical, and unbiased.
- The Interview Board will consist of the immediate supervisor and 2 other voting members who have professional or technical knowledge of the position requirements.
- The Interview Board shall review all potential interviewee-submitted documents prior to drafting interview questions. Interview questions must be submitted to Human Resources at least two days prior to the interviews taking place.

- The Interview Board will make recommendations for final selection but cannot negotiate salaries.
- The HR Director or designee will approve or disapprove the recommendation of the Interview Board.

### **305 Nepotism**

Preferential treatment by a family member for his or her immediate family in hiring, promotion, firing, or lay-off will not be tolerated. Immediate family for hiring purposes shall include: parent, child, sibling, grandparent, grandchild, spouse, person(s) residing in the same household, and current step-child/parent. More specifically:

1. No person shall hold a job or be hired into a job that requires him or her to directly supervise or to be supervised by an immediate family member.
2. No employee shall enter into an agreement with another employee for training or educational benefits provided by the Tribes if the persons are members of the same immediate family.
3. No person shall enter into or supervise contracts or services to the Tribes that are to be performed by his or her immediate family member(s).
4. No person shall serve as an Interview Board Member if an immediate family member is being considered for a vacant position.
5. A person, randomly or otherwise, selected to serve on an Interview Board, shall not accept and shall withdraw when the decision of the board or committee will affect a member of his/her immediate family.
6. No person shall participate on an Interview Board if there is an immediate family member on the Interview Board.

Employees may report concerns regarding nepotism to Human Resources.

### **306 Orientation**

Employee orientation is intended to provide a new employee with general information about Tribal operations, benefits, Policies and Procedures and job expectations. It is the responsibility of the immediate supervisor to ensure the new employee attends orientation sessions, completes the required forms and is available for questions and reference. A schedule of orientation sessions will be provided to the new employee with the expectation that he/she will attend the first available date. The employee will sign the orientation form to acknowledge the information was received. In addition the employee will receive and sign for a copy of this manual and will agree, in writing, to abide by its provisions.

### **307 Initial Introductory Period**

During the introductory period, both the Tribes and its employees will have the opportunity to better understand each other regarding the Tribes' expectations and the employee's skills, attendance, talents and fit for the job. Introductory periods for employees are 90 days in length unless the employee is a Program Manager or higher who have an introductory period of 180 days. Although discouraged, the introductory period may be waived by the Executive Director upon written adequate justification and recommendation of the interview board.

During the introductory period an employee may be released for any reason, and the Tribes' decision to release any employee is not subject to appeal. Programs are responsible for determining, during an employee's introductory period, whether the employee is able and willing to fulfill his or her job duties. The Tribes may release employees who do not or will not satisfactorily perform the duties of their position during the introductory period.

Current employees hired for new positions or demoted to a different position are subject to a 90 calendar day introductory period. Employees will retain their benefits if the position they have assumed is eligible for benefits. Leave time taken in the new position shall extend the introductory period, day-for-day of leave used. If the Program deems that an additional introductory period is warranted to determine if the employee can fulfill the job duties, the manager may request, in writing and in advance, an extension of the introductory period for thirty (30) days to the Executive Director, who may approve it at his or her discretion.

Employees in their Introductory Period do not have an expectation of continued employment, as during this period, employment is not considered a property right.

### **308 Performance Appraisals**

At the very least, appraisals will be completed by the immediate supervisor on a standardized Performance Appraisal Form at the end of an employee's introductory period, and annually thereafter during the month of April.

### **309 Employee Recognition**

The Tribes understands the value of recognizing employees whose performance exceeds the standard and the importance of public service by employees and shall hold an annual Employee Appreciation event. Departments may be responsible for identifying employees whose attendance, performance, professionalism, leadership, and/or public service is outstanding and deserving of special recognition and shall provide to the Executive Director by January 31 of each year a list of employees who, in the department's opinion, is deserving of special recognition. A special committee shall be appointed by the HR Director to develop this recognition program.

Programs, with the approval of Administrative Review, are encouraged to recognize outstanding employees on a more frequent basis through an established standard practice. This may include but it is not limited to: merit increase, bonus, free day off, etc.

### **310 Reclassification of Positions/Compensation**

Positions may be reclassified—that is, their titles and job descriptions and at times, pay range changed.

When a manager or supervisor determines that a position in his or her program should be reclassified, or when an employee believes that his or her position should be reclassified, the supervisor, manager or employee will complete and send a

Reclassification Packet and all supporting documents to Human Resources for review.

Upon approval and subject to the availability of funding, the wages may be paid retroactively from the date of receipt of a complete reclassification packet in the Human Resources office so long as the date is in the current fiscal year. If there is no funding available at the time of approval the job description and/or title may still be revised with a notation that compensation will be based upon the availability of funding.

The overall intent of job descriptions should not be compromised. Job descriptions are intended to reflect and describe the nature and intent of a job classification and may not be a total list of duties. When new assignments are made to a specific job classification, they do not automatically require additional compensation.

### **311 Resignations and Separations**

Employees may resign with or without cause. Resignations will be effective if they are submitted in writing or made verbally, (for example, "I quit!") to anyone in the employee's chain of command. The Separation of Employment (SOE) must be submitted to Human Resources within three business days of date of separation. All employees are requested to give at least two weeks' notice. The immediate supervisor may, with the concurrence of the next level supervisor, agree to a shorter notice to accommodate extenuating circumstances. The last day worked shall be considered the date of separation.

An employee shall be compensated for all vested, accrued, and unused vacation leave only. Employees shall in no case be paid out for unused traditional leave or unused sick leave. Employees who are eligible to receive compensatory time may receive payment for approved but unused compensatory time.

Upon the effective date of resignation or separation for any cause, employees are required to return all tribally-owned and issued equipment and property, including but not limited to computers and devices, cell phones and accessories, keys, credit cards, passwords, and any work-related documents in the employee's possession. Employees who are notified of their separation via mail will have three (3) days to return the Tribes' property. Information created by employees while working for the Tribes is the sole property of the Tribes and shall not be duplicated and removed either in hard copy or electronically from the Tribes' virtual or physical properties. Employees found to have taken or accessed tribal property may be prosecuted.

Employees shall provide to supervisors a written summary of their work in progress in order to affect a smooth transition. The employee's final check will include deductions for amounts owed to the Tribes and unreturned property.

### **312 Abandonment of Job**

An employee who fails to report to work and does not personally contact the immediate supervisor for three (3) complete and consecutive employee work days or shifts will be considered to have abandoned his or her job and will be dismissed unless he or she

can provide a statement signed by a physician or other appropriately authorized professional that the employee was physically incapable of making such contact.

After three complete and consecutive days/shifts of being AWOL the employee shall be deemed to have voluntarily resigned by abandoning his or her job. Employees who abandon their job, have waived their right to an appeal.

### **313 Reductions-in-Force (RIF) and Reorganizations**

The Colville Business Council may approve a Reduction in Force (RIF) based on substantiated facts that there is a lack of funding, shortage of work or a reorganization of the government operations or structure is required that may cause positions to be considered no longer necessary and therefore eliminated.

Reorganizations in which positions are eliminated apply to all classifications.

Reorganizations will be based on changes necessary to improve or eliminate functions or services, address shifts in funding, to eliminate or change the types of positions needed to meet the goals of a program, department or the Tribes. The request for Reorganization requires administrative approval, Human Resource Office review and approval by the CBC. Documents submitted for approval will include the reason the action is being taken, which positions are affected and how and why these specific positions have been identified.

An employee who will be separated under this section will be given as much notice as possible but at least fourteen (14) calendar day's written notice from the Human Resource Office. Employees who are in their introductory period or are temporary will be considered for separation first.

The conditions of lay off under a RIF for employees are:

1. **Voluntary RIF:** When there is a position scheduled to be eliminated, an employee of the same classification of position within the same program may voluntarily offer to be laid off under this section as a RIF with the approval of their Program Manager or Department Director if the position reports to the Department Director.
2. **Offer of Reassignment/Transfer:** Prior to his/her last date of employment, an employee in good standing (has no current or pending disciplinary actions) who is scheduled to be separated as a result of a RIF or Reorganization may be offered a reassignment/transfer into a comparable vacant position if the employee clearly qualifies for the position. If the employee chooses not to accept this offer, no other offers will be made under this policy.
3. **Displaced Employees on Re-employment Lists.** The names of employees who have been laid-off shall be placed on a re-employment list in the Human Resource Offices who will notify the displaced employee of job openings. Persons on the re-employment list will have preference over non-RIF'd applicants provided that the worker displaced by the RIF meets the minimum qualifications for the position and appropriately applies for the position. This option expires twelve (12) months following the RIF or when the employee has

- accepted another Tribal position within those 12 months.
4. **Appointment or Hire of Displaced Employees to Positions of a Lower Class pursuant to this section.** A Department Director may, in consultation with affected Program Manager and with the approval of Human Resources Director or designee, reassign an employee who is to be laid off to an existing vacancy in a lower class for which the employee is qualified and if the employee accepts the lower class position. If the employee chooses not to accept the lower position there shall be no negative consequences with regard to future Tribal employment. Indian Preference applies.
  5. **Order of Separation or Retention.** To determine which positions will be RIF'd or retained, the decision shall be based first upon Indian Preference, performance, and then upon seniority. A termination as a result of a RIF cannot be grieved or appealed.

### **314 Transfers and Promotions**

The Tribes is committed to the professional development of its employees. In an effort to retain our experienced employees, transfers and promotions within the organization are available.

#### **Transfers**

Transfers are considered lateral movements within the same program and can be approved by the Program Manager. At the Tribes discretion, it may require or permit employees to make a temporary or permanent transfer in order to accommodate the needs of the Tribes. Examples of transfers include, but are not limited to:

- Transfers to other locations (worksites/districts) within the same program but maintain the same job title. Employees requesting transfers should make those requests in writing to their supervisor. This option must meet the operational needs or services of the Tribes and program.
- The funding source for the position changes but the employee remains in the same capacity and in the same program under a different funding source.

#### **Promotions**

Promotions may be utilized in some instances which will exclude the regular Hiring Process. The Supervisor may recommend a vacancy to be filled via a promotion, the Program Manager and Department Director must concur, and the HR Director must approve that the vacancy may be filled via a promotion. The Executive Director or designee has final approval of the selected candidate.

Promotions are not to be confused with succession planning (see section 512) or Out of Class Pay (formerly known as Added Duty Pay).

#### **Transfer/Promotion Eligibility& Requirements**

- Employees requesting a promotion should submit a Request for Interview Form to Human Resources.

- Employee must meet the minimum experience, education, and certification and training requirements associated with the position classification.
- Employee must have a track record of maintaining above average attendance and performance.
- Employee must be in good standing without any current or pending disciplinary actions.
- Employee must show potential for being able to manage the increased scope of duties and responsibilities associated with the vacant position classification.
- Employee must have been in their current position for a minimum of six months.
- New positions must be filled through the regular Hiring Process.
- Indian Preference applies.

In the event of extraordinary circumstances, any of the above criteria may be waived with the approval of the Executive Director.

The employee's rate of pay, after promotion, will be determined according to the compensation guidelines for the new position. This policy provides no guarantee of future transfers, promotions, step increases, salary increases or any other salary adjustments.

### **315 Demotions**

Demotions may be employed for a number of different reasons, which include but are not limited to: poor employee performance, unsatisfactory attendance, unacceptable personal conduct, disciplinary actions, and at times an employee-desired reduction in responsibility.

Demotions are not required options or a right. This option should only be entertained and utilized in good faith.

Managers should thoroughly examine if a demotion can truly achieve the desired purpose. The following criteria will be utilized:

- The demotion must satisfactorily solve the issue for which the demotion is being employed.
- There must be a vacant position that is no more than one step below the employee's current position. If it is an employee-desired demotion, then there is not a restriction on the number of steps below the employee's current position.
- The employee shall meet the minimum requirements of the position.
- In cases of demotions that are a result of disciplinary action only, at least 2 written notifications of expectations must be utilized prior to demoting an individual for unsatisfactory performance and/or attendance. Gross negligence or inefficiency in job performance or unacceptable personal conduct does not require any previous written notifications.
- Self-demotions must be mutually agreed upon by the employee and the Tribes.
- The decision to demote must be in the best interest of the Tribes.

When the above criteria are met, an employee may be demoted to a lower pay grade. In an effort to be fair and consistent, it is highly recommended that the compensation for the demoted role be figured appropriately by considering the employee's experience, the requirements of the position, and any applicable budgetary constraints. In no event shall an employee's salary rate be reduced to less than the minimum rate or the special entry rate for the applicable pay grade of the position.

### **316 Employee-Provided Information**

Each employee shall keep Human Resources informed of changes to their name, address, contact information, and any other life changing event immediately.

## **CHAPTER 4 EMPLOYEE CONDUCT**

### **401 Employee Responsibilities**

The Tribes has expectations regarding employee behavior and this Chapter describes some, but not all of those expectations. All employees shall abide by reasonable expectations to improve standards of service, to instill the confidence of the Colville Tribal Members, to prevent conflicts of interest and to otherwise abide by the requirements of this Manual. All employees shall respect every individual's basic human rights and dignity, and will work cooperatively with other employees and guests. There is an expectation that employees will act professionally, whether on delegation, travel status, in the office, or otherwise. Employee appearances should be appropriate for the environment that they work in. At all times, employees must project an appropriate, professional and respectful image of their employer.

Our languages are vital to the survival of our culture, traditions, and way of life. To reflect this, all employees are required to answer their work phones in one of the three Languages of the Colville Confederated Tribes. Each employee will have the option to choose for themselves which Language they answer their phone in. Human Resources will include this requirement in new employee orientation and will teach the greetings to new employees. Disciplinary action cannot be taken for failing to answer the work phones in the languages.

### **402 Conflict of Interest**

An employee's activities, including those of a political or economic nature, that conflict with, or appear to conflict with, his or her duties as an employee, shall not be permitted. Employees who hold secondary employment or contracts, must submit an Additional Employment or Service Form to their supervisor and Program Manager to determine if a conflict of interest exists or if it interferes with their regular job duties.

Employees may have secondary employment, provided the employment does not conflict with their regularly scheduled work hours and work duties. In the event of a schedule conflict, the needs of the Tribes will take precedence.

The Tribes recognizes that some employees have alternate sources of income, and although the Tribes does not wish to hinder their livelihood, they cannot allow that business to interfere with the work flow and services to our clients. To safeguard both, it is the policy that employees shall not solicit or sell products or goods during their work hours with the Tribes. Employees may not take on additional outside work which results in their unsatisfactory performance in their positions for the Tribes.

When evaluating proposals, contracts, bids, and other instruments of business relationship, employees who have prior or current association with firms proposing to do business with the Tribes shall not be involved in the final hiring decision pertaining to any firm with which they currently have or have had association.

#### **403 Service on Committees**

The Tribes supports participation of its employees as representatives on boards, committees or associations provided there are clear benefits to the Tribes and its membership and when resources support such service. Prior to accepting a seat on a board, commission, committee or association outside of program advisory boards, Colville Business Council (CBC) approval is required. Participation on local, program or advisory committees (i.e. parent education committees, health advisory committees) requires only department director approval. An Additional Employment or Service Form must be submitted to immediate supervisor and Program Manager for approval.

#### **404 Improper Use of Position**

Employees are expected to be professional, honest and to act in good faith. A misuse of a position is unacceptable. Employees are expected to stay within the scope of their authority and of their position. Employees may not use their official title, position, or office in the following ways:

- To coerce, threaten, or intimidate any person for any reason.
- To provide preferential or discriminatory treatment, for personal gain, or to conduct personal business.
- To give the impression to any person or agency that he or she represents the Tribes when in fact, he or she does not.

#### **405 Gifts and Gratuities**

Accepting, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or anything of monetary value reasonably determined to exceed \$50.00 in worth from any person, group, or private organization seeking to enter into, or already in, a business or financial relationship with the Tribes, is prohibited. Any such gift offered to an employee during the course of his or her employment must be immediately reported to the employee's immediate supervisor, who shall forward the gift to the Purchasing Office to be used as determined by the Employee Recognition Committee.

Items that are excluded include:

- Gifts from family members, friends, or co-workers
- Food and refreshment of nominal value in the ordinary course of a luncheon or dinner meeting, or other work-related social occasion
- Unsolicited advertising, promotional material, or door prizes such as pens, pencils, calendars, and other small items of nominal value

#### **406 Awards and Recognitions**

Employees may accept:

1. Traditional gifts or awards
2. Personal achievement, meritorious service, or community service awards

#### **407 Honorariums and Board Fees**

Employees who receive honorariums or board fees while acting in their capacity as an employee of the Tribes must return the fee to their program unless otherwise approved. Employees on pre-approved leave and not in tribal-sanctioned travel status may keep honorariums or board fees and mileage allowances. Employees must notify their

immediate supervisor of their status and payment while acting in their capacity as an employee of the Tribes.

#### **408 Travel**

Individuals who travel for business purposes require a valid driver's license and must be eligible for the Tribe's insurance if they're driving or transporting themselves. Tribal or GSA vehicle should be the primary vehicle to conduct business. In situations where Tribal or GSA vehicles are not immediately available, the employee may use their personal vehicle. A valid driver's license and proof of adequate insurance for use of a personal vehicle is required. Personal vehicle insurance will be considered the primary insurance if the employee uses their personal vehicle.

Employees using GSA vehicles must meet all requirements for a GSA license which will include the Tribes' abstract. Employees using a tribal vehicle must be eligible for the Tribes' Vehicle insurance which will include State and Tribal records. The Vehicle Use Authorization Form, signed by appropriate approving authorities, is required when a tribal or GSA vehicle is used before or after scheduled work hours.

When possible, one vehicle shall be shared by all employees traveling to the same destination; only one person may claim mileage for use of a personal vehicle. Mileage will not be paid for travel within the boundaries of the Agency Campus or for use of a tribal vehicle.

Employees are expected to practice safe driving habits, abide by local laws, and wear seatbelts appropriately. Distracted driving is not allowed which includes, but is not limited to cell phones and other electronic devices. Employees must report any driving violations to their supervisors immediately. Any driving infraction that occurs during the course of business or while driving a Tribal or GSA vehicle is the responsibility of the employee.

Use of tobacco, illegal drugs and alcohol are prohibited in a Tribal or GSA vehicles at any time.

Unauthorized passengers and/or personal transports are prohibited. Employees are encouraged to report violations to the Executive Director immediately. Tribal or GSA vehicles other than commuter vans may not be used for regular commuting to and from work unless the vehicle is being used by an emergency response employee and any exception is approved by the Executive Director.

Employees authorized to use their personal vehicle for a business trip may request pre-paid mileage on the approved mileage form and voucher to Accounts Payable. If an employee chooses to drive a personal vehicle and the cost exceeds round-trip air fare to the destination, the employee will be paid only the cost of the air fare and per diem for the days that would be used if the employee had traveled by air. Any employee who is not insurable by the Tribes cannot drive for work related reasons which includes using their personal or a rental vehicle for tribal business purposes.

### **Per Diem for Out-of Area Travel**

Employees delegated to be out-of-area travel will be provided allowable costs or expenses within the established Per Diem schedule. Per diem will be allowed from departure time to return time based on Domestic Per Diem Schedule or the CONUS rate or other approved rate schedule, available in Accounts Payable. Employees must return any overpaid travel allowances with the exception of per diem unless it was overpaid. Where travel costs exceeded per diem, the employee shall submit receipts to request reimbursement and the immediate supervisor shall determine whether those expenses are eligible for reimbursement.

### **409 Confidential Information of the Colville Tribes**

During the course of employment, employees will have access to confidential or privileged information of the Tribes, its members, partners, and its clients. Chapter 10-2 of the Law & Order Code applies in its entirety. Employees shall not disclose Confidential Information to anyone without permission from an authorized individual. If an employee has access to or inadvertently discovers information which he or she reasonably believes may be deemed Confidential by the Tribes, it is the duty of the employee to consult with his or her immediate supervisor to determine if the information is Confidential, and to treat it as such until a determination is made. If employees are served with a subpoena, discovery request, or other legal document compelling disclosure of Confidential Information, employees must immediately notify their immediate supervisor and the Office of Reservation Attorney.

Employees shall not use Confidential Information for their personal gain or profit. The duty to maintain confidentiality continues after an employee leaves employment through resignation or termination, or due to the elimination of the employee's position, or for any other reason. Any employee who violates confidentiality will be subject to disciplinary action which may result in immediate dismissal; current and former employees who violate confidentiality in such a way as to be damaging to the Tribes or its employees are subject to legal action in the Colville Tribal Court. In addition to other remedies and damages, the Court may award punitive damages to the Tribes if it deems such award appropriate under the circumstances.

### **410 Harassment Policy**

The Tribes is committed to providing a work environment that is free from all forms of discrimination and conduct that is harassing, coercive, or highly inappropriate. Actions, words, jokes and/or comments based on an individual's race, religion, national origin, age, sexual orientation, gender, or disability will not be tolerated nor will situations that appear to be Quid Pro Quo harassment. The Tribes provides ongoing harassment training to ensure employees the opportunity to work in an environment free of sexual and other unlawful harassment. All harassment is prohibited. Bullying and other inappropriate behavior not limited to the categories listed above is prohibited.

Employees, who experience or witness any form of harassment in the workplace, should report the act immediately to a supervisor or Human Resources. If the supervisor

is unavailable or it would be inappropriate to contact that person, employees should contact any other member of the Tribe's management. Employees can raise concerns and make reports without fear of reprisal or retaliation which is strictly prohibited.

All allegations of harassment shall be quickly and discreetly investigated. Employees are required to participate in any and all investigations, regardless if related to harassment or sexual harassment. After the investigation is completed, the complainant shall be informed of the outcome of the investigation. Unnecessary disclosure of information is prohibited.

Any supervisor or manager aware of possible harassment is mandated to immediately advise Human Resources so it can be investigated in a timely and confidential manner. A supervisor or manager who fails to report will be subject to disciplinary action, up to and including dismissal. Anyone engaging in any form of harassment will be subject to disciplinary action including termination of employment.

#### **411 Political Activity**

Employees on paid status may not campaign for a candidate for public office. While on the job or on delegation employees shall not conduct political activities, except as endorsed by Colville Business Council directive or Resolution. Employees will not, while engaged in allowable political activities, interfere with the performance of duties of other Tribal employees.

Employees will not use their position to interfere with a tribal election or to influence its results. Employees who are directed to report at District or General Membership meetings are considered on duty only during the time of their reporting.

#### **412 Use of Tribal Property**

All credit cards, computers and devices, equipment, furniture, vehicles, office supplies, phones or other property purchased by the Tribes for use by an employee remain the sole property of the Tribes and shall not be used for personal reasons. No employee shall misuse or use tribal property in an inappropriate, careless, or unauthorized manner. Use of a phone or e-mail to communicate to an employees' family of an emergency will not be deemed a violation of this policy. Employees found to have taken or accessed tribal property without authorization may be prosecuted.

#### **413 Notice of a Lawsuit or Other Legal Claim**

In the event any employee is served with notice of a lawsuit, or of any other claim, whether naming the Tribes as a party or not, regarding the employee's official duties for the Tribes rather than a personal matter, the employee must notify his or her immediate supervisor, who must notify the Executive Director, Human Resources and the Office of Reservation Attorney as soon as possible.

#### **414 Interaction with Funding Agencies**

Tribal employees are expected to maintain professional standards when dealing with tribal, federal, state, or private funding agencies and their representatives. Employees

will contact funding agencies only as required by their job responsibilities and when authorized to do so in order to conduct tribal business; unauthorized contact may result in disciplinary action.

#### **415 Interaction with the Colville Business Council**

The Colville Business Council is the policy-making body of the Tribes. The CBC has delegated responsibility for all personnel matters to the Executive Director through its approval of this Manual. Employees shall notify their immediate supervisor when a directive or assignment is received from a member of the Colville Business Council. Any employee who wishes to grieve or appeal must follow the procedures required by this manual. Employees may bring their work related issues to Council on their personal time or while on leave as long as they exhausted their entire chain of command.

#### **416 Health Requirements**

Some programs have a responsibility to provide healthy workers for the protection of the clients served. The Tribes requires:

##### **TB Testing**

As a condition of employment, employees who directly interact with vulnerable populations such as elders or youth are required to have a tuberculin skin test or have a chest x-ray with a negative result. Additionally, employees who may have been exposed to TB are encouraged to obtain a TB health screen.

##### **Contagious Illness Reporting**

Employees must immediately report a contagious illness to their immediate supervisor. Supervisors have the responsibility to use their best judgment to develop an appropriate course of action to protect other employees and are encouraged to consult Human Resources. As the official custodian of employee records, Human Resources shall receive and maintain all medical documentation.

##### **Reporting Injury or Illness**

Injuries or illness as a result of a work condition or suffered on the job must be reported to the employee's immediate supervisor within twenty-four (24) hours of the injury, illness, or Occupational Disease and complete worker's compensation forms.

#### **417 Safety Rules**

The Tribes has adopted a Tribal Occupational Safety and Health Act (TOSHA) to provide safe work conditions and training. Employees should always be aware of their surroundings and practice safe behavior. Employees are obligated to observe the safety regulations, use the safety equipment provided to them and to practice safe behavior at all times. Employees shall report safety concerns to their supervisor immediately. Employees are provided the ability to participate in the Safety Committees.

#### **418 No Expectation of Privacy/Tribal Ownership of Employee Work Product**

All work areas/posts, equipment, tools, and vehicles used to conduct tribal business are considered part of the work place of the Tribes and its employees which can be examined at any time.

During the normal course of business, other tribal employees may need to obtain access to these areas in order to locate materials or information necessary to complete their duties. As a result, employees should be aware that personal items in their work space are not private or confidential.

All documents, reports, photographs, artwork, intellectual property, or any other employee work product, created or developed by an employee being paid by the Tribes to perform these tasks, whether such work product is in hard copy or electronic form, is the sole and exclusive property of the Tribes and may not be removed from the possession and control of the Tribes.

The provisions of this section do not override the confidentiality of client records.

#### **419 Contracting**

Only the Colville Business Council, or the Executive Director or designee shall enter into any contract which is intended to bind the Tribes. All contracts require appropriate review and approval. All original contracts shall be sent to the Purchasing Office to be filed. Employees may not negotiate any contract on behalf of the Tribes without the prior approval of the Executive Director or at the direction of the Colville Business Council.

#### **420 Purchasing**

No employee will purchase any item on behalf of the Tribes without proper authorization from the Program Manager or designee and review by the Purchasing Program.

#### **421 Social Networking Policy**

Employees may not publicly discuss any confidential information, work-related matters, or items that may impact the workplace outside of the Tribes' authorized communications.

Employees are cautioned that they should have no expectation of privacy while using Tribal equipment or facilities for any purpose, including authorized blogging, and that generally there is no expectation of privacy while using the Internet.

The Tribes investigates all reports of violations of the social networking policy. Report claims of violations to the Human Resources Office who will forward it to the appropriate investigative party. Violation of the Tribes' social networking policy may result in disciplinary action up to and including immediate termination. The Tribes reserves the right to take legal action where necessary against employees who engage in prohibited or unlawful conduct.

## **CHAPTER 5 COMPENSATION, BENEFITS, ATTENDANCE, AND ABSENCES**

### **501 Work Hours**

Good attendance contributes to a positive and productive work environment. Employees are expected to report to work on their scheduled days and for the duration of their scheduled shift. The Tribes' usual workday is 7:30 a.m. to 4:00 p.m. five days per week. Most employees work five, eight-hour days unless otherwise approved by the Department Director. Every Tribal office will be open Monday through Friday unless officially closed for a holiday or other authorized closure; those offices with non-traditional hours will arrange days off to ensure the office is open five days a week. If the employees do not have an office but work in the field, it is not necessary to schedule five-day coverage. The workweek is defined as starting Sunday morning and ending Saturday night.

### **502 Flex Time**

Flex time is time on the job outside the normal working shift, used to arrive at 40 working hours in a week. Flex time is not allowed unless specifically requested in advance in writing and approved by the Program Manager and monitored by the Supervisor.

### **503 Breaks**

Employees are entitled to an unpaid 30-minute lunch break using immediate supervisor's employee lunch schedule, and two paid 15-minute personal breaks each day. Employees cannot work during their lunch breaks without advanced permission of their supervisor, unless they are exempt employees. Non-exempt employees who are required to work through their lunch must be compensated appropriately. However, they cannot be required to work during their 15-minute breaks.

### **504 Tardiness**

Exempt and non-exempt employees are expected to report to work on time. Grace periods are not allowed unless for extreme conditions. If an employee has to be more than five minutes late, it is the employee's responsibility to personally contact his or her immediate supervisor. Employees who are habitually tardy or have patterned tardiness may be subject to disciplinary action. "Habitual tardiness" means being tardy two times in any two (2) week period. "Patterned tardiness" means tardiness that occurs in a regular and repeated way.

### **505 Absences**

Employees shall plan their absences responsibly by requesting leave in advance. If an employee has to be absent on short notice, they will speak directly to their supervisor. Efforts to contact their supervisor shall occur as soon as possible but no later than one hour after their shift has begun. Failing to have adequate reasoning for an absence or failing to properly request leave in the timeframes allowed, will result in the absence being recorded as Absent Without Leave or Leave Without Pay at the supervisor's discretion. Employees who have inadequate attendance or has patterned absences may be subject to disciplinary action. "Inadequate attendance" means being absent

twice on short notice in any thirty (30) day period that does not qualify for Sick Leave. "Patterned absences" means absences that occur in a regular and repeated way.

#### **506 Wasted Time**

Employees shall not display unproductive work habits. Examples of unproductive work habits include, but are not limited to the following: spend excessive time visiting, talking on the telephone on personal matters, "surfing" the internet for non-work related reasons, or promoting their private business.

#### **507 Overtime**

Employees may be entitled to overtime pay or not entitled to overtime pay. Without opting into the rules relating to federal law, the Tribes embraces the terms non-exempt to describe those employees who are overtime eligible and exempt for those employees who are not overtime eligible. The Tribes will define whether the position is a non-exempt or exempt for purposes of determining eligibility for overtime compensation.

A non-exempt employee may not work more than 40 hours per workweek without pre-authorization in writing from the Program Manager. If employees are required to work in excess of 40 hours, they will be compensated at time-and-a-half their regular rate via overtime or compensatory time based on funding availability.

#### **508 Exempt Employees**

Without opting into the rules relating to federal law, the Tribes may mirror some degree of the exempt wage deductions rules. Exempt employees are employees who, because of their positional duties and responsibilities and level of decision making authority, are exempt from the overtime.

Exempt employees are expected to work their scheduled shifts that generally require at least a 40 hour work week in order to adequately achieve the deliverables identified in their work load and job descriptions. All leave policies and procedures herein apply to exempt employees.

#### **509 Compensatory Time**

Compensatory time is time off from work in lieu of overtime compensation in your paycheck. Like overtime compensation, compensatory time is calculated at 1.5 hours for every hour worked in excess of 40 hours in a workweek. Since exempt employees are not eligible for overtime compensation, the Tribes does not allow for compensatory time for exempt employees. Compensatory time requires pre-approval.

#### **510 Standby Time**

Certain positions may be required to be available for work (on standby) without actually being at work but must be accessible to report to duty within a reasonable time. The Standby plan and approved rate must be approved by the Department Director in conjunction with Human Resources.

## **511 Benefits**

The Tribes provide competitive benefits to employees as a portion of employee compensation. The Tribes provide to eligible employees the following benefits: medical, vision, dental, and limited retirement and life insurance. Supplemental life insurance, short term disability, long term disability, and other optional coverages may be available at the employee's expense.

### **511.1 Eligibility for Benefits**

Eligibility for benefits is defined by benefit documents maintained in the Human Resources office and generally summarized below. Managers shall submit Separation of Employment (SOE) forms within 3 business days of the effective date of the employee's separation. Benefits cease the end of the month following the effective date of the employee's separation.

Full-Time employees working at least 30 hours per week will be eligible for benefits the first of the month following the date of hire.

Part-Time employees work less than 30 hours per week. They may receive prorated benefits and leave. Medical benefits shall begin the first of the month following their first day of employment.

Temporary employees, who work 30 hours per week on average, may receive medical benefits the first of the month following their 60<sup>th</sup> day of employment.

Seasonal employees working seasonal occupations may receive a prorated amount of benefits.

Short Notice employees will be eligible for benefits the first of the month following 60 days of employment if they work an average of 30 or more hours per week.

### **511.2 Medical and Vision**

A comprehensive medical and vision plan is provided for each eligible employee. Dependent coverage is available as a deduction from employee payroll. Rate information and plan description are available in the Human Resources Office, Benefits Division. Please note there are Open Enrollment limitations.

### **511.3 Dental**

A comprehensive dental plan is provided for each eligible employee. Dependent coverage is available as a deduction from employee payroll. Rate information and plan description are available in the Human Resources Office, Benefits Division. Please note there are Open Enrollment limitations.

### **511.4 Life Insurance**

The Tribes provide life and accidental death and dismemberment benefits to each eligible employee. This benefit is available for dependents as a deduction from employee payroll.

There are voluntary life and accidental death and disability insurance companies that are authorized by the Tribes to speak with employees at designated times during the year. This additional coverage is available at the expense of the employee.

#### **511.5 Supplemental Life Insurance**

Eligible employees may purchase supplemental life insurance on a voluntary basis for themselves and their dependents.

#### **511.6 Short Term Disability**

Short term disability is available on a voluntary basis for each employee who works a minimum of 30 hours per week. Short term disability coverage is only available to the employee at their expense at the time of hire. Eligibility criteria is set by the insurance carrier. For further information, contact the Benefits division of Human Resources.

#### **511.7 Long Term Disability**

Long term disability is available on a voluntary basis for each employee who works a minimum of 30 hours per week. Long term disability coverage is only available to the employee at their expense at the time of hire. Eligibility criteria is set by the insurance carrier. For further information, contact the Benefits division of Human Resources.

#### **511.8 Retirement**

A generous retirement plan is provided as part of the compensation package offered to employees. The Tribes encourage all employees to participate in the plan through payroll deductions. For those employees who contribute to the retirement plan through elective deferrals, the Tribes make a basic Matching Contribution equal to 25% of the elective deferral which does not exceed 4% of total compensation. Regardless of whether an employee contributes to the plan or not, the Tribes contribute 3.75% through profit sharing to each employee. Any monies contributed by the Tribes (which are considered employer contributions) will be deposited into the employee's 401(k) account. Employees who elect to make deferrals can choose between a pretax 401(k) and after-tax Roth 401(k) account. Additional information about the Tribes' retirement plan is available through the Retirement Program.

### **512 Education and Training**

The goal of the Tribes is to employ properly trained and fully qualified Colville Tribal members for all positions with the Tribal governance operations. Training is a benefit the Tribes provides to its employees intended to improve production and service. Employees must remain abreast of new technology, research, theories and application skills to provide quality services and as resources allow will participate in relevant training. Training, career development and educational opportunities for employees is not an entitlement but a discretionary benefit that responds first to those we serve, to

the Tribal Government, and then to the individual employee.

**Responsibilities:**

Tribal Administration and Managers will implement this policy in an effective, fair and fiscally responsible manner. Individuals who participate in training and education programs will represent the Tribes with integrity and will make progressive efforts toward completing training and academic programs in a timely and satisfactory manner and be mindful of their responsibility to use Tribal funding and time invested in their training plan for only those purposes.

**Eligibility:**

This policy is applicable to all eligible employees of the Tribes who meet the criteria specified herein. Indian Preference in hiring, promotion and training applies with preference given to Colville Tribal members. Participants must have a written Employee Development Plan (EDP) to be eligible for either academic or other training programs and meet program-specific criteria as determined by the program requirements. Program-specific criteria may apply as required by grant or contract.

**Training Planning And Approval Process:**

The Tribes will invest in its employees to the extent there is a return. Planning individual or program training, whether for a short-term training (seminar, conference, workshop, webinar, core technical training, etc.) or a longer-term training plan (college degree, work experience, internship, academy, succession & leadership training, etc.) is effective when the overall benefit of the training activity to the Tribes is considered.

Employees must obtain approval to attend a training and/or education activity/program from their immediate supervisor with Program Manager approval for off-reservation travel and use of program funds. Subsequently the Department Director will approve Program Manager training/education and the Executive Director or designee will approve the Department Director's requests. All training and education requests must consider the following to be approved:

1. Training must be clearly relevant to the employee's job duties and skill/education level and experience.
2. Training must be cost effective and consider its impact on the job responsibilities, time away from the work site and on co-worker workload. All training is subject to the availability of funding.
3. Training must support goal(s) and required competency to be accomplished as included in the employee's Employee Development Plan.
4. The employee must meet standard eligibility requirements to be approved.
5. Locally-sponsored or regional training is preferred to out of state training to the greatest extent possible to maximize funding and to train the greatest number of employees with similar goals. The Tribes may elect to bring the training to the reservation in lieu of off-reservation training.
6. If there is a local trainer or "expert" within the Tribal or affiliated tribal agencies who can provide the same information, the manager is to recommend and/or arrange for technical assistance and local training using local Tribal trainers.

7. Sending multiple staff to attend the same training activity is discouraged and must be clearly justified in writing to the Manager and/or Director.
8. Managers may not approve training requests where the employee's skill or education level exceeds the level of the training (i.e. basic training or similar training has already been attended).
9. A trained and competent employee is worth being retained and adequately compensated as they complete their training plan. A reasonable expectation by the Tribes is that an employee trained by the Tribes is also expected to continue employment with the Tribes for a reasonable period of time (payback period). For certain types of training, an Agreement may be required that covers continued service to the Tribes.
10. Employees are expected to represent the Tribes with integrity and will be required to sign an Education & Training Standards of Conduct form.
11. Education and Training (off reservation) requests will be made using the Education & Training Request Form and will be submitted as far in advance as possible to allow adequate planning and scheduling. Internal employee training and onsite training arranged through the Training & Organizational Development Office will use TODM forms.
12. See Leadership and Management Training (Succession Training Plan).

#### **Training And Education Policies:**

For the purpose of these policies, "Training" activities and programs include: Short-term training for employment-related skill development and training; cultural enrichment, personal and professional development through classroom instruction, on-line instruction, seminars, workshops, webinars, technical assistance and training conferences, on the job training, etc. Long-term training may include work experience, internships, succession training, certification or licensing programs, pre-requisite courses, academy completion; vocational and technical series certificated courses. "Education" activities and programs include enrollment in a degreed program of study from an accredited post-secondary institution and includes coursework (distant learning, video conferencing, local or non-local classroom sites, online, laboratory work), practicum, professional continuing education, or a language emersion program

#### **Educational Leave:**

The Tribes will allow up to forty (40) hours of paid educational leave per calendar year for full time permanent, part-time permanent or seasonal permanent employees to fulfill the educational goals of their Employee Development Plan. The employee will complete the Education Leave Request Form and secure approval from his/her program Manager.

#### **Cultural Enrichment:**

The Tribes supports employee participation in Tribal language, history and diversity training regardless of their ethnicity, race, Tribal affiliation or position. When training is available, employees may participate in or attend up to four (4) hours per month of organized training or education activities related to the Colville Tribes. The employee is

responsible for providing documentation of their attendance and participation. Supervisor approval is required and will ensure there is no adverse impact on program business and services

### **Professional Certification And Licensing And Continuing Education:**

1. Professional certifications may be required for certain positions with the Tribes and demonstrate employee qualifications and mastery of particular subject areas. Employees with professional certification and licensing requirements will make arrangements with their supervisor to continue their certification and licensure whether costs are borne by the Tribes or by the employee. In no case will an employee with required Professional Certification or License allow their license or certification to expire as it may result in termination from employment. Employees are responsible to pass required exams and obtain their required certification within the time specified.
2. Employees are encouraged to obtain and maintain additional relevant professional certifications as part of their Individual Development Plan when it can be demonstrated that these certifications are in the best interest of quality service, the government and the program.
3. Employees must ensure they meet the requirements for continuing education hours/units as required by their profession.
4. An employee may, upon the written approval of the Program Manager and Department Director be allowed a reasonable period of paid leave not to exceed 40 hours to prepare for an examination or entrance exam in a professional reasonably related to the employee's current position.
5. Employees who fraudulently misrepresent their credentials, educational degrees, licensing or certifications may be subject to discipline, up to and including termination.

### **Leadership And Management Training (Succession Plan):**

A Leadership and Management competency-based training approach to:

1. Identify and develop potential successors based on individual strengths and readiness from within the Tribes for specific key positions that meet the values, future needs and requirements of the Tribes.
2. To establish a talent pool of employees to ensure leadership continuity to reallocate work, replace key positions that are critical to the mission of the Tribes and are prone to either rapid turnover or are hard to fill and that need to be filled to maintain operations.
3. To concentrate resources on the talent development process to increase the number and quality of Tribal members filling key positions.
4. This training will include an Individual Professional Development Plan. (IPDP) Participants will be selected by Senior Managers and Directors through the
5. Training and Organizational Development office based on established procedures.

**Required Training:**

All employees are to attend required training as determined by the Tribal Administration. Employees are responsible to attend training required by their position necessary to maintain program funding, certification and licensure.

**Training Records:**

The Human Resource office will maintain these documents, as applicable in the employee personnel file: Employee Development Plans, copies of training certificates, the Employee Education Funding Acceptance Agreement, signed Education and Training Standards of Conduct (and annual renewals), copies of Professional Certificates, licensure and other documents that documents the completion of education and training objectives. Employees must provide a copy of their training certificates, grades, diplomas, certificates, license, and other documents related to training and education agreements.

## **CHAPTER 6 EMPLOYEE DISCIPLINE**

### **601 Disciplinary Actions**

The Tribes prefers to utilize good management and fair supervision to support its employees. When disciplinary action is necessary, the Tribes uses discipline of a progressive nature. Therefore, the Tribes uses verbal warning, written warning, suspensions, demotions, and terminations in a manner that fits the Tribes' needs. The Tribes, at its sole discretion, is entitled to utilize discipline that is appropriate for the circumstances presented.

When concerns arise, it is imperative that they are researched and addressed fully by the supervisor or designee. Supervisors are encouraged to contact Human Resources for a pre-disciplinary consultation. Researching concerns shall include the following:

- Documenting the concern and/or allegation.
- Exhaust all potential witnesses and reasonably relevant resources and document exhausted avenues.
- The employee shall be granted the option to answer to the allegations.
- Documenting the outcome and the reasoning for the decision.
  - When documenting the reasoning for disciplinary action, the employee's past behavior, relevant circumstances, and previous and new precedence must be taken into consideration.
- Compiling documents into a file and sending the originals to Human Resources.
- If disciplinary action is warranted, draft the recommended forms to complete disciplinary action then send to Human Resources for review.
- Disciplinary actions must be reviewed by Human Resources prior to issuing to the employee. However, failing to follow this step will not void the action taken but may lead to disciplinary action for the supervisor(s) involved.
  - Supervisors shall notify their chain of command prior to taking action to dismiss, demote, or suspend an employee.

In cases of misconduct or conflicts of interest, inquiries may be delegated to parties outside of the chain of command with the concurrence of the Program Manager and Department Director. The Executive Director and Colville Business Council, in their sole discretion, may assign an inquiry to an agency outside of the Tribal Government.

In some workplace incidents progressive discipline may not be appropriate. In such cases the supervisor may elevate the level of discipline up to termination. This Manual provides guidance and delegates supervisors leeway in making employment related decisions. All disciplinary measures shall be documented and placed in the employee's personnel file where they shall remain with the exception of the verbal warning which should be informally documented.

### **Verbal Warnings**

Although not a complete list, verbal warnings are typically given for first time incidents of employee tardiness, minor non-productive work hours, unauthorized absence during work day, minor unprofessional behavior instances, failure to complete assigned duties,

inadequate quality of work, late time sheets or non-emergency leave slip, failure to obtain advance approval before working extra hours, and failure to contact immediate supervisor with leave request when supervisor is available to consider request. A verbal warning notifies the employee of his or her unacceptable behavior and encourages the employee to improve to acceptable standards. Verbal warnings will be informally documented by the immediate supervisor.

### **Written Warning**

Typically, for a second occurrence of the behavior addressed by a verbal warning, or for more serious first offenses, the supervisor may issue a written warning, or take more serious measures. A written warning notifies the employee of his or her unacceptable behavior and encourages the employee to improve to acceptable standards. Written warnings are documented through the Employee Warning Notice form. The completed originals and all supporting documentation must be submitted to Human Resources.

### **Suspension Without Pay**

Typically a suspension without pay is used by a supervisor to address more serious workplace behaviors or behaviors which have been addressed, but not corrected, by the employee. Depending on severity of the violation, the duration of the suspension without pay shall be a minimum of 3 work days or shifts and cannot exceed fourteen calendar days. Suspensions are documented on a Suspension Notice form. The completed originals and all supporting documentation must be submitted to Human Resources.

### **Progressive Dismissal**

Progressive dismissal results where an employee fails to correct their behavior despite documented disciplinary action. Some instances of unacceptable behavior may include, but are not limited to the following examples:

- Repeating offenses for which prior disciplinary action was taken
- Unsatisfactory job performance rating on two consecutive performance evaluations
- Unsafe acts or violation of safety rules
- Absent Without Leave for three days in any one-year period

This action shall be documented on a Notice of Dismissal form. The completed originals and all supporting documentation must be submitted to Human Resources within 5 business days of the action being issued to the employee.

### **Immediate Dismissal**

In some cases immediate dismissal may be appropriate and is within the supervisor's discretion. Depending on severity, causes for immediate dismissal include, but are not limited to:

- Misappropriation, theft or negligent loss of tribal funds, property, or equipment, or conspiracy to commit misappropriation or theft
- Failure to reasonably protect tribal assets, property or equipment
- Violation of the conflict of interest, misuse of position, or nepotism policy

- Violation of the harassment policy
- Criminal conviction that negatively impacts the employee's fitness for the position held
- Extreme unsafe acts
- Concealing, removing, falsifying, misrepresenting, or otherwise altering records or information.
- Insubordination
- Disclosing confidential information without appropriate authorization
- Absent Without Leave or unauthorized absence from work for three consecutive days or shifts
- Serious verbal assault upon another employee or another person in the workplace
- Serious misuse or unauthorized use of tribal or government vehicles, property, or equipment
- Viewing, printing, or storing pornography on Tribal equipment or use of Tribal phone to access, send, or show pornography
- Threatening another person with bodily harm or displaying extraordinary aggressive behavior that is threatening in nature
- Dishonesty or misrepresentation to a supervisor, an administrator higher up the chain of command or to the Colville Business Council regarding a workplace matter
- Failure to comply with the employee's written Corrective Action Plan, Return to Work Agreement, Mandatory Referral to the Employee Assistance Program, or Last Chance Agreement
- Willfully and intentionally refuse to follow a lawful written directive or resolution of the Council
- Willfully attempt to conceal from Council information regarding a matter of importance to the Tribes.
- Off the clock or off-duty behavior which significantly compromises the Tribes' confidence in the employee.
- Any other offense deemed terminable by the employee's supervisor, Human Resources, and the Division Director or Executive Director.

An employee's actions that lead to dismissal may be taken into consideration upon application of re-employment. The Tribes reserves the right to exclude applicants who have engaged in gross misconduct (i.e. theft, embezzlement, fraud, etc.) depending on severity in comparison to the position the applicant is applying for.

### **Exceptions**

There are exceptions to disciplinary action that the employer may utilize individually or in combination of other disciplinary/corrective actions. Exceptions to progressive discipline include, but are not limited to the following:

- Last Chance Agreement
- Return to Work Agreement
- Mandatory Referral to an Employee Assistance Program or similar resource

- Corrective Action Plan
- Provisional Hire Agreement
- Demotion
- Trainee Plan

## **602 Separation**

Any employee dismissed from employment, who has resigned or for other reasons is separated from employment, shall immediately return all Tribal supplies, equipment and property in the employee's possession to the immediate supervisor. All work products, whether in hard copy or electronic or other form, produced by an employee while performing his or her duties for the Tribes, is the property of the Tribes and may not be removed from the employee's office or workstation upon the employee's separation from employment. Any funds owed to the Tribes or unreturned property shall be subtracted from the employee's final paycheck. The employee's final check will be processed on the next regular check run, and be sent by mail to the employee's last reported address. Employees may remove only personal effects from their worksites, but are not entitled to remove personal files from their work computer.

## **603 Exit Interviews**

Upon an employee's separation from employment for any reason, the immediate supervisor shall make reasonable attempts to conduct an exit interview using the "Exit Interview" form in a timely manner. Employees are encouraged to participate in the exit interview by either meeting with their supervisor or submitting the Exit Interview form to Human Resources. A copy of the completed form will be kept in the employee's personnel file in the Human Resources Office.

## **CHAPTER 7 GRIEVANCES AND APPEALS**

### **701 Introduction**

The Tribes is interested in eliminating workplace disputes. An aspect of addressing disputes in the workplace includes two policies. The first policy is the Complaint Policy and the second policy is the Grievance and Appeal Policy. The Grievance and Appeal Policy assists eligible employees to address termination of employment, suspensions of employment or a disciplinary demotion of an employee to another position. Since there are reasonable limitations placed on those workplace matters which are permitted as a grievance, the Tribes provide a complaint process to address other workplace disputes which require the employee to utilize the chain of command per section 103. The Grievance and Appeal Policy is intended to address a narrow scope of employment related matters while the Complaint Policy is intended to address a wide scope of employment related matters.

This policy is intended to supplement rather than discourage or replace informal discussion between supervisors and employees. *A supervisor should make every reasonable effort to resolve employee concerns outside this Grievance and Appeal Policy. Likewise, employees are encouraged to make every reasonable effort to resolve their concerns outside this Grievance and Appeal Policy.*

Please note there are strict deadlines imposed by this Policy. Some, but not all, of the deadlines relate to the requirements of an employee to complete and deliver certain forms which are available in Human Resources. A failure to meet certain deadlines will result in the employee's loss of opportunity to start or pursue a grievance or appeal. Read this policy carefully.

### **702 Eligibility**

This policy is available only to employees of the Tribes. Employees may address, through a grievance or appeal, only termination of employment, suspension without pay or involuntary demotion from a job position to another job position which pays the employee less compensation.

Although not a complete list, this process cannot be utilized for dismissals for violating the following actions or for the actions themselves:

- Reduction in Force
- Reorganization
- Corrective Action Plan
- During Introductory Period
- Temporary Employees or E-Hire Employees
- Return to Work Agreement
- Last Chance Agreement
- Provisional Hire Agreement
- Mandatory Referral to the Employee Assistance Program or similar resource
- Trainee Plan

## **703 Grievances and Appeals**

For eligible employees and terminated individuals, this policy consists of two steps which are outlined below:

### **Step 1: Grievance (Director Review)**

Through the office of Human Resources, the employee shall, within 5 days of the incident which causes the employee to file a grievance, complete and hand deliver to Human Resources the approved form. Upon receipt of the grievance form, within 5 business days, Human Resources shall schedule and the Department Director shall complete a meeting with the Program Manager where the employee works (or worked). Within a reasonable time not to exceed 5 business days, the employee and his or her chain of command including the Department Director shall meet. The Department Director shall issue a written decision addressing the grievance within 3 business days following the meeting. If the employee accepts the Department Director's decision the grievance ends. If the employee does not accept the Department Director's decision the grievance moves to Step 2.

### **Step 2: Appeals (Administrative Law Judge)**

If the employee is not satisfied with the written decision at the completion of Step 1, the employee may appeal the Step 1 decision by submitting the required form to Human Resources within 5 business days after receipt of the written decision from Step 1.

Upon receipt of the grievance form requesting Step 2, Human Resources shall forward the grievance paperwork to an Administrative Law Judge within 5 business days. An Administrative Law Judge may be selected from a panel of ALJs retained by the Tribe for the purpose set out herein. All ALJs shall be law-trained, and admitted to practice in the State of Washington or other court of competent jurisdiction. The Administrative Law Judge shall schedule the hearing as soon as practicable, but in no event later than 30 days. Administrative Law Judges may not hold a hearing without at least five (5) days' notice to the parties.

During the hearing, the Administrative Law Judge shall evaluate the evidence offered at the hearing and apply the rules and expectations of the workplace in arriving at a recommendation which supports or opposes the termination, suspension or demotion. The employee may be represented by an attorney or spokesperson at the hearing. The Tribes may be represented by a Spokesperson or at the Executive Director's discretion, an attorney. Prior to the Hearing date, either party must notify the Administrative Law Judge and the opposing party if an attorney or spokesperson will be representing them.

The Administrative Law Judge shall issue a decision based on clear and convincing evidence within 10 business days indicating one of the following:

- Uphold the personnel action

- Modify the personnel action to a lesser penalty in accordance to the progressive discipline described herein
- Overturn the personnel action

If the Administrative Law Judge overturns the personnel action he or she is limited to recommending reinstatement, satisfaction of back pay less the unemployment benefits they received, removal of documents related to the action to suspend, dismiss or demote from the employee's record, and restoration of benefits (not including retirement, additional life insurances, or supplemental insurances). The Executive Director shall ensure that the decision of the ALJ is carried out. If the personnel action is overturned the Executive Director will ensure appropriate disciplinary action will be taken with parties who took the personnel action if applicable. The Administrative Law Judge's decision is the final step in the Administrative process.

If the Administrative Law Judge modifies the personnel action to a lesser penalty, the lesser penalty cannot be grieved or appealed. For example, if the employee grieved or appealed a dismissal, and the ALJ reduces the dismissal to a suspension, the employee cannot grieve or appeal the suspension. The ALJ is limited to recommending satisfaction of back pay (less unemployment benefits if applicable), restoration of benefits (not including retirement, additional life insurances, or supplemental insurances), and replacing documents with the modified action.

**Withdrawal of Appeal:** An employee may withdraw an appeal at any time and should do so by submitting their written withdrawal to Human Resources. Once withdrawn, the decision will remain as defined by prior actions and the process cannot be restarted for the same action.

### **Human Resources Consultation**

The procedure as outlined describes the normal course in which appeals are resolved. Employees should note that the Human Resources Department is available to provide employee consultation or assistance at any time prior to or during the appeal procedure.

Training and support will be provided to supervisors and managers in dealing with employee appeals. In addition, employees should be encouraged to consult with Human Resources, their Supervisors, or other members of management, on a less formal basis regarding team member complaints or disputes when appropriate.

### **704 Hearings**

#### **Hearing Procedures**

- The hearing shall be closed and confidential.
- The appellant will present first, and will bear the burden of demonstrating, by clear and convincing evidence, that the action being grieved or appealed was improperly implemented pursuant to this manual or other applicable law.
- The supervisor or other employee who took the action being grieved or appealed will present second, and will be given the opportunity to present clear and convincing evidence that resulted in the personnel action.

- Each party will be given the opportunity to present their own and question the other's witnesses.
- Each part will be allowed a reasonable time for opening and closing statements.
- All proceedings shall be recorded and either party may obtain a copy of the recording at his/her own expense, except when a portion or portions of the hearing must remain sealed to protect employee confidentiality. No formal rules of evidence will be utilized, unless by comment of the parties.
- The Administrative Law Judge shall have complete discretion to determine whether persons other than the parties may be allowed to attend the hearing in order to assure an orderly process.
- Employees that serve as witnesses will receive their regular wages for the time served attending an appeal hearing.

## **705 Complaints**

Since there are reasonable limitations placed on those workplace matters which are permitted as a grievance or appeal, the Tribes provides a complaint process to address all other workplace disputes. Such complaints shall be handled in accordance with Section 103 of this manual which requires an employee to follow their chain of command.

## **CHAPTER 8 DRUG AND ALCOHOL POLICY**

### **801 Definitions**

“Intoxicant” means a substance which has been “scheduled by the Drug Enforcement Administration pursuant to the Controlled Substances Act of 1970; “intoxicant” also means alcohol in any form designed for human consumption (including cough suppressants and inhalants); “intoxicant” also means any drug obtained pursuant to a legitimate prescription issued by a medical professional, when the use of the drug does not conform to the prescription. “Intoxicant” does not mean a substance which is prescribed by a licensed physician to that person and which is used according to the prescription.

“Controlled substance” is generally a drug or chemical whose manufacture, possession, or use is regulated by a government.

“Worksite” (a.k.a. workplace) means the offices of the Tribes or assigned work stations, including rented meeting sites for conferences attended as part of the employee’s job, and any vehicle provided by the Tribes, whether rented, leased, or purchased (which shall also include an employee’s personal vehicle used in the course of the employee’s work so long as the employee claims mileage for such use). “Worksite” also means off-reservation sites where employees are representing the Tribes, working pursuant to a contract with the Tribes, or the employee’s home when the employee is on “standby” and are receiving pay.

“Religious use” means the use of a substance pursuant to a recognized Native American religious practice.

“Approved medical use” means the proper use of a substance consistent with a prescription issued by a health care professional and used only by the person for whom the prescription is prescribed.

“Safety sensitive employee” means those positions those which require a Commercial Driver’s License; law enforcement personnel who carry fire arms; emergency responders; employees who work with vulnerable populations, and heavy equipment operators. Any questions whether a specific position is “safety sensitive” will be determined on a case by case basis by the Human Resources Office.

“Intoxication” means that as a result of the use of an intoxicant, the employee is mentally or physically impaired or under the influence of an intoxicant.

### **802 Drugs and Alcohol in the Workplace**

This policy is applicable to all employees. Independent contractors and their employees who work for the Tribes may be subject to this policy through their contracts with the Tribes, if the Executive Director, after consultation with appropriate department directors and/or program managers, determines that it is in the interest of public health or safety to do so.

The use of intoxicants or being under the influence to any degree while on paid status or during approved breaks is prohibited.

An employee who tests positive for controlled substances or alcohol while on paid status will be subject to a 2 workweek suspension from employment and a Return to Work Agreement. The Return to Work Agreement shall include a requirement to get an assessment and follow the treatment plan which may include participation in a rehabilitation program and successfully pass follow up testing. The employee shall sign and adhere to the Return to Work Agreement. A second positive drug or alcohol test will result in dismissal and cannot be grieved or appealed.

Employees are prohibited from lawfully or unlawfully manufacturing, selling, purchasing, transferring, possessing, or using alcohol or controlled substances in the workplace, and may be immediately terminated for doing so.

All employees are required to warrant in writing that they have been informed of the above policy and agree to it in all respects. Such agreement is required as a condition of continued employment. The writing will be made a part of the employee's personnel file.

Employees who are convicted of criminal drug or alcohol violations must report it to their supervisor and Human Resources within 5 calendar days. Failure to do so may result in disciplinary action. Supervisors shall notify their chain of command and consult with Human Resources regarding employees who report convictions.

### **803 Drug Testing**

All candidates for employment for Safety Sensitive positions are subject to pre-employment drug and alcohol testing. Employees who occupy Safety Sensitive positions are subject to random drug and alcohol testing. All employees are subject to post-accident and reasonable suspicion drug and alcohol testing.

### **804 Tests**

If the Tribes determines that a test sample has been altered or diluted or in any way tampered with by the employee, the employee shall be determined to have tested positive. If an employee refuses or evades a drug or alcohol test required by these policies, the employee shall be determined to have tested positive. Employees must complete the drug and alcohol test within the timeframes specified. The results of all drug tests will be available only to those who need to know.

### **805 Procedures**

As part of the interview and screening process the Human Resources Office will inform all candidates for Safety Sensitive positions that a pre-employment drug and alcohol test will be required. If the test results are positive, the candidate will be immediately dismissed from the applicant pool, without appeal and may not apply for another position for at least thirty (30) days.

### **Post-Accident**

If the employee while at work is involved in an accident which injures the employee, another person, or property, that employee will be subject to immediate drug and alcohol testing. Supervisors must contact Human Resources to arrange for testing. The employee cannot drive until released by Human Resources; therefore, must be transported by supervisor or designee. If the testing results are positive, the employee will be subject to disciplinary action, up to and including dismissal.

### **Random**

Random tests will occur during the employees work hours and no employee will be required to take leave for the test. If the testing results are positive, the employee will be subject to disciplinary action, up to and including dismissal.

### **Tests Administered for Reasonable Suspicion**

If there is a reasonable suspicion that an employee in the workplace is under the influence of drugs or alcohol, the employee shall report this in writing to the suspected employee's direct supervisor. The direct supervisor shall immediately speak with and observe the employee suspected of being under the influence and shall reasonably ascertain whether the employee exhibits signs of intoxication as defined in this policy or applicable policies. If the supervisor reasonably determines that employee appears to exhibit such signs, the supervisor shall immediately order a drug test for the employee as appropriate, or the manager shall be subject to disciplinary action.

Supervisors must contact Human Resources to arrange for testing. The employee cannot drive until released by Human Resources; therefore, must be transported by supervisor or designee.

Supervisors and employees are encouraged to consult with Human Resources when questions or concerns arise.

Supervisors are mandated to receive annual Reasonable Suspicion training.

### **Retest**

Any employee whose drug test indicates a positive result may immediately request that the initial sample be retested for confirmation at the employee's expense. If the retest is a confirmed negative the matter will be treated as if the employee had tested negatively in the initial sample.

### **Approved Religious Use**

Regarding religious use, employees are expected to refrain from using or being under the influence of these substances while on paid status. In the event that an employee who is directed to take a drug test pursuant to these policies and procedures reasonably believes, because of the religious use of an intoxicant, that he or she might be determined to test positive in a drug test, the employee will immediately inform his or her immediate supervisor. The immediate supervisor will approve leave (as appropriate) for the employee for that day; however, the employee will still be required to undergo

drug testing before leaving the work.

**Responsibility to Notify**

An employee who is prescribed drugs for medical or psychological purposes is required to report to supervisors and Human Resources if any side effects of the prescription, that limit or affect work performance, motor skills or cognitive abilities. The intent of this provision is to protect the employee and employer from liability risks.

## **CHAPTER 9 WHISTLEBLOWER PROTECTIONS**

### **901 General Prohibitions and Protected Acts**

Any employee of the Tribes is prohibited from taking any retaliatory action against another employee because that employee does any of the following:

#### **Discloses Violation of Law**

Discloses, threatens to disclose or is about to disclose to a supervisor or to a public body, an activity, policy or practice of the employer, a co-employee or another employer, that the employee reasonably believes is in violation of a law, or a rule or regulation promulgated pursuant to law, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care.

#### **Provides Information to Official Proceeding**

Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law by the employer or another employer, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into the quality of patient care.

#### **Discloses Incompatibility with Policy**

Discloses, threatens to disclose or is about to disclose to a supervisor or to a public body, an activity, policy or practice of the employer, a co-employee or another employer, that the employee reasonably believes is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment.

#### **Assists Official Proceeding**

Assists or participates in a proceeding to enforce the provisions of this law.

#### **Objects to Violating Process**

Objects to, opposes or refuses to participate in any activity, policy or practice which the employee reasonably believes:

1. Is in violation of a law, or a rule or regulation promulgated pursuant to law or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care
2. Is fraudulent or criminal, or
3. Is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment.

### **902 Procedural Requirements and Remedies**

Employees are not excused from continuing to perform their jobs or follow their company's legitimate workplace rules because they have filed a complaint.

Examples of retaliation include, but are not limited to:

- Employment actions such as unwarranted termination, refusal to hire, and denial of promotion,
- Other actions affecting employment such as threats, unjustified negative evaluations, unjustified negative references, or increased surveillance.

Any employee who believes he or she has been retaliated against by any tribal employee as a result of “whistle blowing” shall report the retaliation in writing to the Executive Director, or to the Colville Business Council if the person alleged to have retaliated is the ED. An investigation shall be completed in a timely manner. As a result of the investigation, appropriate disciplinary action, up to and including dismissal may be taken.

## **ACKNOWLEDGEMENT**

I acknowledge receipt of the Manual and agree to become familiar with this Manual. I further understand that I must use good judgment, practice in good faith, stay within the scope of the authority of my position, and will be fair and consistent on behalf of the Confederated Tribes of the Colville Reservation.

Dated: \_\_\_\_\_  
Employee signature

\_\_\_\_\_  
Print Name