THE NAVAJO NATION

Personnel Policies Manual

January 1, 2015

RESOLUTION OF THE
HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE
OF THE NAVAJO NATION COUNCIL

22ND NAVAJO NATION COUNCIL - Fourth Year, 2014

AN ACTION

RELATING TO HEALTH, EDUCATION AND HUMAN SERVICES COMMITTEE; AMENDING THE NAVAJO NATION PERSONNEL POLICIES MANUAL TO COMPLEMENT AMENDMENTS TO THE NAVAJO PREFERENCE IN EMPLOYMENT ACT

BE IT ENACTED:

Section 1. Findings

A. The Health, Education and Human Services Committee is established as a standing committee of the Navajo Nation Council with the purpose to oversee Navajo Nation efforts in implementing and ensuring compliance with employment and labor laws and policies of the Navajo Nation and laws relating to veterans services 2 N.N.C. § 400(A),(C)(3).

B. The Health, Education and Human Services Committee shall have the enumerated power to establish Navajo Nation policy, promulgate rules and regulations governing health, social services, education, human services and general services of the Navajo Nation and its tribal organizations, entities and enterprises 2 N.N.C. § 401(B)(1).

C. The Health, Education and Human Services Committee serves as the oversight for the…Division of Human Resources 2 N.N.C. § 401(C)(1).

D. The Navajo Nation Personnel Policies Manual may be amended from time to time by the Health, Education and Human Services Committee of the Navajo Nation Council at the recommendation of the Division of Human Resources which include the Department of Personnel Management and the divisions of the Executive Branch and Legislative Branch. Navajo Nation Personnel Manual, I.D.

E. To complement amendments to the Navajo Employment in Preference Act, CO-48-14, the Navajo Nation Department of Justice recommends amendments to the Navajo Nation Personnel Policies Manual. See Exhibit A.

Section 2. Amendments

The Navajo Nation hereby amends Section I, V, XIV, and XV of the Navajo Nation Personnel Policies Manual as follows:

I. PERSONNEL POLICIES

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B. APPLICATION

These personnel policies apply to all employees of the Executive and Legislative Branches of the Navajo Nation government, regardless of funding source or employment status, except where they are specifically excluded. These policies do not create an employment contract by implication and the rights and privileges granted employees are only those specifically stated. These Personnel Policies apply in a limited manner to applicants for employment positions with the Executive and Legislative Branches of the Navajo Nation government, as provided in Section XIV herein.

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V. EMPLOYMENT STATUS

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B. Introductory Period

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6. Unsatisfactory Performance or Conduct

a. If, during the 90-day introductory period, the employee's performance or conduct is found to be unsatisfactory, the immediate supervisor may terminate the employee for just cause, provided that the employee is given contemporaneous written notification citing the reason(s) for the termination.

b. ~~An employee terminated during any introductory period has no right to grievance.~~ Termination of new employees within the introductory period voids accrued annual and sick leave. Supervisory and transferred employees will receive payment for all accrued annual leave.

7. Failure to Complete Supervisory Introductory Period

a. Employees failing to successfully complete their supervisory introductory period will be returned to their previous position, if it is available, at their prior rate of pay. If the previous position is not available, they will be considered for a comparable position. If a comparable position is not available, they will be laid off and placed on preferential status for re-employment.

b. Employees failing to satisfactorily complete a supervisory introductory period will not be considered for another supervisory position for a period of 12 months. ~~During the supervisory introductory period, an employee has not rights to grievance.~~

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XIV. EMPLOYEE GRIEVANCE

A. Policy

An ~~eligible~~ employee who feels aggrieved as a result of an application of disciplinary action such as discharge, suspension, loss of pay or benefits, or an employee or an applicant for an employment position who alleges a violation of the Navajo Preference in Employment Act has a right to utilize the procedures provided in this Section ~~available, except that layoffs in compliance with Section XV.E are not grievable~~.

B. Eligibility

All ~~regular status~~ employees are eligible to file a grievance concerning the application of disciplinary action such as discharge, suspension, loss of pay or benefits, and any employee or applicant for an employment position are eligible to file a grievance alleging a violation of the Navajo Preference in Employment Act. ~~Temporary, new, and~~ At-will employees are not eligible.

C. Grievance Process

1. Step One:

An employee or an applicant for an employment position must file a written grievance ~~request for reconsideration~~ with the supervisor who initiated the action within ~~five~~ twenty working days of the disciplinary action or alleged violation of the Navajo Preference in Employment Act, with a copy to the Department of Personnel Management. The supervisor must attempt to resolve the problem with the employee or applicant within ~~five~~ ten working days after receipt of the ~~request~~ grievance.

2. Step Two:

If the supervisor fails to address the ~~reconsideration request~~ grievance or if the employee or applicant disagrees with the ~~reconsideration~~ decision, the employee or applicant must file a written appeal with the Human Resources Director within ~~five~~ ten working days of the completion of Step One above. The appeal shall include:

a. the name and position of the Aggrieved Party,

b. the name and position of the supervisor initiating the action,

c. a clear and concise statement of the underlying facts, including the dates and alleged events or conditions which form the basis of the appeal, and the specific harm allegedly sustained by the Aggrieved Party as a result of the violation,

d. the relief sought by the Aggrieved Party.

3. Step Three:

~~a.~~ Within ten working days of receipt of the appeal, ~~T~~the Department of Personnel Management will convene an Administrative Meeting with the employee or applicant and the supervisor to attempt settlement ~~if the appeal is grievable~~. If the Department of Personnel Management does not convene the meeting or ~~resolve the~~

~~grievance~~ if the parties do not settle the grievance within the ten working days, then the grievance proceeds to Step Four.

~~b. The Department of Personnel Management has the authority to terminate the grievance process if an appeal does not satisfy XIV.A. Such decision shall be final.~~

4. Step Four:

If the employee or applicant disagrees with the outcome of the Administrative Meeting, or if no Administrative Meeting was convened, the employee or applicant must file a written grievance appeal with the Department of Personnel Management within ~~five~~ fifteen working days of the conclusion of Step Three for immediate transmittal to the Hearing Officer. A filing fee of $25.00 must accompany this appeal. At this point, and not earlier, both parties may be represented by legal counsel.

5. Step Five:

A Navajo Nation Hearing Officer will conduct the grievance hearing. The hearing will be held within 30 working days of the date of filing, or as soon thereafter as agreeable to the parties. The Hearing Officer will~~, whenever possible, hear the grievance within 30 working days and must~~ render a written decision within ~~ten~~ twenty working days of the hearing ~~thereafter~~.

6. The decision of the Hearing Officer is the final administrative decision.

D. Refund of Filing Fee

If the grievance is withdrawn or resolved prior to commencement of the grievance hearing, the filing fee shall be refunded.

E. Grounds for ~~Termination~~ Dismissal of Grievance

Abandonment of a case or noncompliance with required grievance deadlines ~~and policies~~ by the Aggrieved Party will be grounds for ~~termination~~ dismissal of the grievance. The Department of Personnel Management will make such determination and inform all parties. Dismissal of a grievance may be appealed to the Hearing Officer under Step Four.

F. Withdrawal of Grievance

At any point in the grievance process, an employee may withdraw the grievance.

G. Status of Position Pending Grievance Outcome

Any changes regarding a position affected by a grievance will be placed on hold by the Department of Personnel Management until such time the grievance is resolved or a final decision is rendered.

H. Status of Employee Pending Grievance Outcome

1. Notwithstanding the foregoing subsection G, disciplinary actions shall be effective immediately upon notice to the employee.

2. Notwithstanding an employee's involvement in a current grievance, subsequent violation(s) of the personnel policies by the employee may result in separate disciplinary action(s).

3. An employee that has filed a grievance shall be allowed reasonable use of available annual leave hours for the purpose of participating in the grievance process.

I. Grievance Hearing Officer

A Hearing Officer of the Office of Hearings and Appeals shall hear grievances under this Section. The Office of Hearing and Appeals' rules for personnel grievances shall govern the grievance hearing. The Hearing Officer shall have the authority to uphold or reverse the disciplinary action of the supervisor, award back pay to the grievant, and when required, order that the employee's record be expunged, and may provide any other relief available to the grievant under the Navajo Preference in Employment Act. The Hearing Officer may also consider the appropriateness of the penalty imposed and if circumstances warrant, reduce the penalty. However, in no case shall the ~~h~~Hearing ~~o~~Officer increase the penalty imposed by the supervisor.

* * * *

XV. TERMINATION OF EMPLOYMENT

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F. Termination of Volunteers or Temporary Employees

1. A supervisor may terminate a volunteer or temporary employee at any time. The termination must be in writing and include an explanation for the termination, consistent with Navajo law.

2. A volunteer ~~or temporary employee~~ who is terminated is not entitled to re-employment, layoff, or grievance rights.

3. A temporary employee who is terminated is not entitled to re-employment or layoff rights.

4. A volunteer or temporary employee may resign without prior notice. The resignation must be in writing.

G. Termination of New Employees

1. A supervisor may terminate a new employee for just cause at any time during the introductory period. The termination must be in writing and include an explanation for the termination, consistent with Navajo law.

2. A new employee who is terminated is not entitled to re-employment~~,~~ or layoff~~, or grievance~~ rights.

3. A new employee may resign without prior notice. The resignation must be in writing.

* * * *

Section 3. Effective date

The amendments enacted herein shall be effective January 1, 2015, pursuant to 2 N.N.C. § 221; and applicable to disciplinary actions or alleged violations which occur on January 1, 2015, and thereafter.

Section 4. Savings Clause

Should any provision of these amendments be determined invalid by the Navajo Supreme Court, or the District Courts of the Navajo Nation without appeal to the Navajo Supreme Court, those provisions which are not determined invalid shall remain the law of the Nation.

C E R T I F I C A T I O N

I hereby certify that the foregoing resolution was duly considered by the Health, Education and Human Services Committee of the Navajo Nation Council at a duly called meeting at Twin Arrows, Navajo Nation (Arizona), at which a quorum was present and that the same was voted on with a vote of 2 in favor (Honorable Charles Damon II and Honorable Dwight Witherspoon) and 2 opposed (Honorable Joshua Lavar Butler and Honorable Walter Phelps), and passed with a vote by the Chairperson to break the tie, this 17th day of December, 2014.

Honorable Jonathan L. Hale, Chairperson
Health, Education and Human Services Committee

Motioned: Honorable Charles Damon II
Seconded: Honorable Dwight Witherspoon

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I. PERSONNEL POLICIES

A. Purpose

These policies are designed to assist supervisors to deal consistently with human resources issues and to outline the rights, benefits, and what is expected of Executive and Legislative Branch employees.

1. Role of the Navajo Nation

The Navajo Nation determines jobs to be performed, offers employment, and compensates employees for the work performed.

2. Role of Management

Supervisors are responsible for utilizing and applying the personnel policies consistently in dealing with human resources issues. They are encouraged to seek advice from Department of Personnel Management and Department of Justice on the interpretation of the Personnel Policies Manual and in addressing employment issues. Supervisors are expected to provide leadership in implementing the policies and to set positive examples for employees.

3. Role of the Employee

Employees shall read, understand, and comply with policies and procedures that affect or apply to their employment.

4. Role of the Department of Personnel Management

Department of Personnel Management shall develop and implement procedures, as necessary, consistent with the policies contained in this manual. Department of Personnel Management will also provide guidance to supervisors on the interpretation and intent of the manual and assist in addressing employment issues.

B. Application

These Personnel Policies apply to all employees of the Executive and Legislative Branches of the Navajo Nation government, regardless of funding source or employment status, except where they are specifically excluded. These policies do not create an employment contract by implication and the rights and privileges granted employees are only those specifically stated. These Personnel Policies apply in a limited manner to applicants for employment positions with the Executive and Legislative Branches of the Navajo Nation government, as provided in Section XIV herein.

C. Exceptions

1. Certain categories of employees may be affected by policies and regulations that may take precedence or may supplement these policies.

2. To the extent that programs are required to develop policies or procedures that take precedence over or supplement this manual, they shall be reviewed and approved as necessary by the Department of Personnel Management prior to implementation by the program.

D. Amendments

These policies may be amended from time to time by the Health, Education and Human Services Committee of the Navajo Nation Council at the recommendation of the Division of Human Resources which include the Department of Personnel Management and divisions of the Executive Branch and the Legislative Branch.

II. MANAGEMENT AND SUPERVISORY RESPONSIBILITIES

Managers and supervisors are responsible for:

1. Developing and maintaining the highest possible level of performance in their work units.

2. Developing and maintaining good employee working relationships and conduct in their work units.

3. Planning, organizing, directing, coordinating and supervising all functional activities and responsibilities within their assigned work unit.

4. Preparing budgets, performance reports, and other documents as required.

5. Submitting required reports to the Navajo Nation Council, Standing Committees, Commissions and Boards as specified by Navajo Nation law.

6. Implementing personnel policies and procedures as outlined in this manual.

7. Implementing and maintaining internal operating policies, procedures, and control.

8. Safeguarding and accounting for all assets, including but not limited to, funds and property for which there is a custodial responsibility.

9. Representing the Navajo Nation in official functions as directed.

10. Approving or disapproving all documents in accordance with functional responsibilities.

11. Managing employee performance in accordance with established policies and procedures.

12. Coordinating employee background checks as outlined in Section IV.K of these policies.

13. Maintaining reporting relationships consistent with the chain of command.

14. Coordinating activities with other governmental agencies.

15. Upholding the laws and regulations of the Navajo Nation.

16. Monitoring the presence of unauthorized individuals at the worksite and taking appropriate action.

III. EMPLOYMENT PRACTICES

A. Policy

The policy of the Navajo Nation is to comply with all applicable laws that govern the employment relationship between the Navajo Nation and its employees. Consistent with the provisions of applicable laws and policies, the Navajo Nation will not improperly discriminate against any applicant or employee.

B. Navajo Preference

The Navajo Nation gives preference in employment to enrolled members of the Navajo Nation in accordance with the provisions of the Navajo Preference in Employment Act (15 N.N.C. §601 - §619).

C. Equivalency Clause

The use of the equivalency clause is henceforth eliminated for job description/classification development by programs. Equivalency clause is defined as automatically making a college degree (or degrees) the equivalent of a certain number of years of experience (and vice-versa). Henceforth, to establish job descriptions/classifications, programs must:

1. Establish minimum qualifications for a position (whether a certain number of years of experience, a specific educational requirement or both) required as a baseline for qualification assessments; and

2. Establish preferred qualifications for a position (whether a certain number of years of experience, a specific educational requirement or both) in seeking the best qualified candidate.

D. Other

Whenever necessary, departments and programs may offer preference in employment to other applicants based on funding source requirements; however, in no case may this preference supersede Navajo preference.

E. Second or Outside Employment

1. Full-time employment with the Navajo Nation shall generally be the sole employment of any employee. However, it is recognized that personal situations do occur which might make it necessary for employees to seek supplementary employment.

2. An employee shall not engage in outside or self-employment without prior written approval from the immediate supervisor and the Human Resources Director.

3. An employee who secures outside or self-employment without written approval may be subject to dismissal.

4. An employee may not concurrently hold two full-time positions with the Nation.

5. Additional employment should not impair job performance with the Nation. This includes conflicts of interest, neglect of duty, absence from or tardiness to the workstation, and performing duties associated with additional employment during normal working hours.

6. If an employee is absent from his/her job due to outside or self-employment, the employee shall be required to take leave.

7. Supervisors are responsible for determining whether additional employment adversely affects job performance with the Nation.

8. Honoraria and/or compensation received for occasional seminars, speeches, or presentations are not deemed to be second or outside employment and are not subject to these provisions.

F. Hiring of Relatives

1. To promote consistency and equity in the treatment of all employees, to prevent breaches in confidentiality, to prevent improper influences in employment and to prevent the perception of favoritism, the Navajo Nation will not employ, in any position, the immediate relatives of current employees if:

   a. one is directly supervising the other on a regular basis,
   b. there is potential for creating an adverse effect on supervision, security, or morale, or the potential for a conflict of interest.

2. For purposes of this policy, the term "relative" is defined as an individual who is related by blood or marriage to the employee as a father, mother, son, daughter, brother, sister, grandmother, grandfather, uncle, aunt, cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, sister-in-law, brother-in-law, stepfather, stepmother, stepson, stepdaughter, stepsister, stepbrother, half brother or half sister.

3. If employees become related after employment and a conflict such as described in the above paragraph is created; or, if a reorganization creates such a conflict, 90 calendar days will be allowed to resolve the matter voluntarily or by transfer of one of the employees. If that is not possible, the employee with the most recent date of continuous employment will be released.

4. Employees, members of the Navajo Nation Council, or other committees capable of influencing hiring, evaluation, or other employee actions, and who are related to employees covered by these policies, shall refrain from influencing all actions having to do with such relatives.

5. All applicants for positions with the Navajo Nation shall indicate on the official application form whether they are related to any employee. This information will be used to determine possible conflicts of interest involving the position. If an applicant knowingly answers questions untruthfully concerning the relationship, and this fact later becomes known, the employee will be terminated immediately.

IV. RECRUITMENT AND SELECTION

A. Policy

In general, the Navajo Nation employment process will ensure competitive practices in recruitment, selection, and placement of qualified applicants

based on the applicant's knowledge, skills, abilities, and overall qualifications for employment with the Nation. The employment process shall comply with applicable laws of the Navajo Nation.

B. Responsibilities

1. Each Program Manager shall be responsible for:

   a. complying with the employment, recruitment and selection policies and the requirements of applicable Navajo Nation, state, and federal laws;
   b. notifying the Department of Personnel Management of all vacant positions to be filled;
   c. defining the duties and responsibilities of the vacant position and, with the assistance of the Department of Personnel Management, the position requirements; and
   d. making the final selection from among applicants referred by the Department of Personnel Management for a position.

2. The Department of Personnel Management shall be responsible for:

   a. establishing, implementing and monitoring effective recruitment and selection policies and procedures;
   b. assisting programs in defining job-related position requirements and determining the most effective recruitment and selection policies and procedures;
   c. advertising vacant positions;
   d. establishing selection procedures;
   e. conducting qualification assessments and referring qualified applicants to the program;
   f. advising supervisors on personnel policies and procedures, interpretation of requirements, and professional standards for selection methods;
   g. consulting with supervisors on the availability and qualifications of applicants for specific positions, reviewing; and
   h. monitoring and evaluating the effectiveness of selection processes.

3. The Director of the Human Resources and the Division Director jointly:

   a. may waive any policies under this Section if the essential program services are being hampered by critical employment needs for a specific class or classes provided that the waiver is not contrary to Navajo Nation law;

b. may implement temporary procedures; and
c. shall ensure that employees hired under temporary procedures are selected on the basis of the criteria herein.

C. Advertising of Vacant Positions

1. All vacant positions must be advertised for a minimum of 10 working days. Job vacancy announcements may be in-house, outside the Navajo Nation, or submitted to the Department of Personnel Management to be published on the bi-weekly job vacancy listing.

2. A job vacancy announcement is not required when a position is to be filled by:

   a. departmental demotion of any employee;
   b. placement of a former Navajo employee with preference for re-employment;
   c. promotion or transfer of a qualified Navajo who is currently a regular status employee with the Navajo Nation.

3. To ensure compliance with applicable laws and policies, all in-house and outside job vacancy announcements require prior approval from the Department of Personnel Management before posting.

4. Requests for job vacancies to be included on in-house and the bi-weekly vacancy listing published by Department of Personnel Management are to be submitted on the Job Vacancy Announcement complete with all required information.

5. The Department of Personnel Management may consider on a case-by-case basis other job announcement options such as open recruitment and applicant pools to assist programs in filling positions.

D. Application for Employment

1. Navajo Nation employment application forms are available at the Department of Personnel Management or may be downloaded from the Department's website. The application form solicits information from the applicant relating to education, experience, training, residence and other pertinent information. Applicants are required to sign the application which includes a statement that they are certifying to the truth and accuracy of all information provided therein and consenting to the required background check. An unsigned application shall be deemed incomplete and shall be returned to the applicant.

2. Applications may be hand delivered, mailed, faxed, or e-mailed and must be received by the Department of Personnel Management by the close of business on or before the closing date specified on the job vacancy announcement.

3. Applicants shall be required to furnish, at their own expense, education, or other qualifications, which are job-related as may be deemed necessary. In order to receive full credit for education, certification, or licensure, transcripts, copies of degrees, certificates, and other appropriate documents must be submitted along with the employment application.

4. Applicants for a sensitive position must submit a signed and completed employment application and shall comply with Subsection K.

5. Any misrepresentations, falsifications, or material omissions in any of this information or any other materials used in the application process, or information offered during the interviews, may result in the exclusion of the individual from further consideration for employment for that position; or if the person has been hired, termination of employment.

E. Qualification Assessments

1. The Department of Personnel Management shall conduct a qualification assessment on all applications received on or before the closing date specified on the job vacancy announcement. The qualification assessment is based on the information provided on the employment application and other appropriate documents.

2. Applicants who have been determined not qualified may submit a written appeal to the Human Resources Director within ten working days from the date of the non-qualified notice.

3. The results of the appeal shall be considered the final administrative decision.

F. Interview Expenses for Key Positions

1. An applicant interviewed for a key position may be reimbursed for interview expenses subject to the interviewing program's availability of funds. The Division Director will be responsible for designating key positions jointly with the Department of Personnel Management.

2. Reimbursement of interview expenses will be limited to one trip to the interview site and actual reasonable expenses, including commercial fare, car rental, personal vehicle mileage, meals, lodging and other incidental costs.

3. Reimbursements shall not exceed the current travel expense rates established by the Navajo Nation and must be supported by receipts.

G. Referrals

1. Applicants who meet the qualification requirements shall be referred to the hiring department by the Department of Personnel Management in the following order or priority:

   a. Enrolled Navajos with re-employment preference
   b. Enrolled Navajo veterans with preference
   c. Other enrolled Navajo applicants
   d. Non-Navajo spouses of enrolled Navajos
   e. Non-Navajos

2. Program Managers shall consider applicants in the same order as outlined in G.1 above. However, the applicant possessing the best qualifications to perform the duties of the position should be selected.

3. Anytime a lower priority applicant is selected over higher priority applicants, the Program Manager shall provide written justification to the Department of Personnel Management setting forth the reasons for the selection.

4. Non-Navajos may be considered only when the applicant pool referred by the Department of Personnel Management does not include persons with higher priority as set forth in G.1 above.

H. Re-employment Preference

1. A regular status employee separated from employment due to a reduction-in-force shall be eligible for re-employment preference.

2. Re-employment preference shall not be granted to employees who have not attained regular status at the time of layoff.

3. Re-employment preference continues for a period of six months from the date of layoff provided the employee does not decline Navajo Nation employment when offered.

I. Selection of a Non-Navajo

1. Prior to hiring a non-Navajo for initial employment, written approval must be obtained from the Division Director. All subsequent personnel actions involving the non-Navajo, such as transfers, promotions or demotion shall also require written approval by the Division Director.

2. The hiring of a non-Navajo spouse, who is eligible for preference, shall require written approval only by the Department of Personnel Management.

3. The non-Navajo shall be required to train a Navajo who is employed in a position similar to the position in which the non-Navajo was hired, provided a Navajo individual is available and is otherwise eligible for the position. The non-Navajo's supervisor shall set a timeline by which this training will be completed.

4. The training requirement will not be necessary if:

   a. the position requires formal education, certification or licensure and such is only available from authorized or certified entities; or
   b. the non-Navajo is a spouse of an enrolled member of the Navajo Nation.

J. Selection Methods and Criteria

All selection methods and criteria shall be job related. Selection methods include any assessment or technique used as qualifying mechanisms; physical, education, work experience requirements, formal and informal interviews, and application forms.

1. <u>Age Requirements</u>

   a. Applicants under sixteen years of age shall not be considered for regular employment unless an exception has been made by <u>applicable</u> law or regulation.
   b. For applicants sixteen years and older, age shall not be a factor in employment except for those positions in which bona fide occupational qualifications are required.

2. <u>Physical Qualifications</u>

   A person selected shall possess and maintain the minimum physical qualifications necessary to perform essential duties of the position. The Department of Personnel Management, with the assistance of the Program Manager, shall designate those

positions for which medical examinations shall be required prior to employment. Whenever the supervisor has reason to believe that an employee's health is adversely affecting his/her job performance, the employee may be required to undergo a medical examination by a licensed physician. The results shall be used to determine continued employment.

3. Polygraph Tests

No applicant or employee shall be requested or required to take a polygraph test as a condition of applying for or obtaining employment.

4. Work and Education Reference Checks

To verify information about an applicant's knowledge, skills, abilities, character, and other qualifications that will be important to successful performance in a new position, job-related inquiries may be made of current and former supervisors. The applicant shall consent to the Department of Personnel Management and/or the hiring department to conduct such a work and education reference check. Information provided by an applicant to obtain employment, which later proves false, shall be grounds for termination.

K. Background Check and Adjudication for Sensitive Positions

1. Policy

The policy of the Navajo Nation is to promote a safe and secure work environment, to provide for the safety of Navajo Nation employees, volunteers, interns, and program participants and to protect the Nation's funds, property, and other assets by obtaining and adjudicating background checks on those positions designated as sensitive. This policy shall be implemented in a manner that protects individuals' right to privacy. Consistent with the provisions of applicable laws and policies, the Navajo Nation shall not discriminate against any applicant or employee.

2. Development and Implementation of Policies and Procedures

The Department of Personnel Management in collaboration with the Office of Background Investigations shall establish procedures relating to obtaining, investigating and adjudicating background checks. Procedures to implement these policies shall be developed and promulgated by the Department of Personnel Management and the Office of Background Investigations.

3. For purposes of this Subsection, child is defined as a person who is less than eighteen (18) years old.

4. Section K does not apply to commissioned law enforcement personnel and employees of the Navajo Nation Gaming Regulatory Office.

5. Designation of Sensitive Positions

   a. In consultation with the hiring department and subject to final approval by the Human Resources Director or designee, the Department of Personnel Management shall designate sensitive positions pursuant to 5.b. Upon designation the Department of Personnel Management shall inform the Office of Background investigations.

   b. Sensitive positions are those positions with the following job responsibilities:

      1) providing child care in a child care facility, or providing for the health, safety and welfare of a child, particularly where responsibility involves direct repetitive contact with a child or unsupervised access to children;
      2) providing patient care or providing for the health, safety and welfare of adults and elders;
      3) having responsibility for money, receipts and/or disbursement of negotiable instruments, e.g., money, checks and property disbursements;
      4) having responsibility for credit data, credit account records or credit transactions;
      5) carrying and using firearms;
      6) having responsibility for the safety and security of Navajo Nation property;
      7) having routine access to security control and key systems;
      8) having responsibility for controlled substances or toxic, radioactive or other hazardous materials;
      9) having responsibility for confidential information or sensitive data protected by federal, state or Navajo Nation law.

   c. All job vacancy announcements for sensitive positions shall include notice that a favorable background investigation is required.

   d. The Navajo Nation shall not hire any applicant for a sensitive position until a background check and suitability assessment

have been completed.

e. Upon designation by the Department of Personnel Management, supervisors shall provide written notice to current employees that their positions require a favorable background investigation.

1) A current employee shall submit a completed security application packet to the Office of Background Investigations within 30 calendar days of receiving notice from his/her supervisor that a background check is required for his/her position.
2) An employee who fails to comply with the background check requirement shall be deemed ineligible for continued employment pursuant to the Table of Penalties.
3) A supervisor who fails to notify their employee, in writing, that a background check is required shall be disciplined pursuant to the Table of Penalties.
4) An extension may be granted to an employee who has demonstrated good cause for exceeding 30 calendar days. All extensions must be in writing and approved by the Office of Background Investigations Manager. The Office of Background Investigations shall provide written notice of all approved extensions to the Department of Personnel Management.

6. Applicability

These policies apply to all employees who are regular status, seasonal, at-will, or temporary, applicants, volunteers, interns, and to employees who are assigned (i.e., transfer, promotion or position reclassification) to a sensitive position. Background checks conducted and completed by other agencies shall not be accepted in lieu of background checks conducted by the Office of Background Investigations.

7. Required Documents for Sensitive Positions

a. A security packet containing the following documents shall be submitted to the Office of Background Investigations by an applicant being considered for employment into a sensitive position or an employee who is occupying a sensitive position:

1) a Security application;

2) a valid State Driver's License or State Identification Card;
3) a Social Security Card or if not a United States Citizen, the applicant's Visa; and
4) a current Navajo Nation tribal criminal history report.

A security packet that does not include all of the above documents shall be deemed incomplete and will not be processed.

b. Individuals are required to provide accurate and complete information, and not to omit material information needed to make a decision. Any misrepresentation, falsification or material omissions in any information provided to the Office of Backgrounds Investigations may result in the exclusion of the individual from further consideration for employment for that position; or if the person is employed, termination of employment.

8. Background Check

Every applicant, employee, volunteer or intern applying for or employed in a sensitive position must give written consent to the Navajo Nation to obtain a criminal background check. If an individual's criminal history includes plea(s) of guilty or no contest to or convictions of any offense under federal, state, including county and municipal, and Navajo Nation or other tribal jurisdiction, the Office of Background Investigations shall determine, upon investigation and adjudication, whether the offense(s) may bear upon the individual's fitness to perform the duties of a sensitive position. An unfavorable result shall be grounds for nullifying an offer of employment or terminating employment.

If an individual's criminal history includes convictions that are identified by federal or Navajo Nation law as mandatory grounds for prohibition of employment in sensitive positions, a suitability assessment shall not be conducted, and an offer of employment shall not be made or employment shall be terminated.

An employee shall be given an opportunity to refute, correct or explain the unfavorable information by submitting a written response with an explanation of the background information, and such information must be supported by documentation in the form of unaltered law enforcement, court or other applicable documentation.

If the funding sources of certain Navajo Nation programs such as Navajo Head Start or the Office of Youth Development require

additional or more stringent standards, the Office of Background Investigations shall apply such requirements in conducting background checks.

a. If plea(s) of guilty or no contest to or convictions of the following are included in an individual's background check and have been verified, an applicant shall not be hired or employment shall be terminated for those sensitive positions specified under Subsection K.5.b.1:

   1) any felony;
   2) any misdemeanor involving a child including but not limited to sexual or physical abuse or neglect;
   3) any 2 or more misdemeanors involving crimes of violence, sexual assault, molestation, exploitation, contact or prostitution, crimes against persons.

b. If plea(s) of guilty or no contest to or convictions of the following are included in an individual's background check and have been verified, a suitability assessment shall be conducted of the individual's fitness for being hired or assigned to a sensitive position, as specified under Subsection K.5.b.1:

   1) any misdemeanor involving controlled substances;
   2) any other conviction that may negatively bear on an individual's fitness to have responsibility for the health, safety and welfare of children, youth, adults, and elders.

c. If plea(s) of guilty or no contest to or convictions of the following are included in an individual's background check and have been verified, a suitability assessment shall be conducted of the individual's fitness for being hired or assigned to a sensitive position, as specified under Subsection K.5.b.2:

   1) any felony;
   2) any misdemeanor involving a child;
   3) any 2 or more misdemeanors involving crimes of violence, sexual assault, molestation, exploitation, contact or prostitution, crimes against persons;
   4) any misdemeanor involving controlled substances;
   5) any other conviction that may negatively bear on an individual's fitness to have responsibility for the health, safety and welfare of adults and elders.

d. If plea(s) of guilty or no contest to or convictions of the following are included in an individual's background check and have been verified, a suitability assessment shall be conducted of the individual's fitness for being hired or assigned to a sensitive position, as specified under Subsection K.5.b.3, 4, 6, 7, 8, 9:

1) any felony;
2) any misdemeanor involving moral turpitude, fraud, misrepresentation, embezzlement, theft, controlled substances;
3) any other conviction that may negatively bear on an individual's fitness to have responsibility for the sensitive positions in this Subsection.

e. If plea(s) of guilty or no contest to or convictions of the following are included in an individual's background check and have been verified, a suitability assessment shall be conducted of the individual's fitness for being hired or assigned to a sensitive position, under Subsection K.5.b.5:

1) any felony;
2) any misdemeanor involving moral turpitude, fraud, misrepresentation, embezzlement, theft, controlled substances;
3) any misdemeanor involving a child;
4) any 2 or more misdemeanors involving crimes of violence, sexual assault, molestation, exploitation, contact or prostitution, crimes against persons;
5) any misdemeanor involving controlled substances;
6) any other conviction that may negatively bear on an individual's fitness to have responsibility for the sensitive positions in this Subsection.

f. As a condition of employment, a background check shall be conducted every three (3) years for each employee occupying a sensitive position, unless otherwise specified by funding source, laws, regulations or pursuant to the Acknowledgment of Understanding form.

g. Pursuant to the Acknowledgement of Understanding an employee in a sensitive position consents to report to his/her supervisor, in writing, within 72 hours of any arrest, criminal indictment, or conviction. The supervisor within 72 hours of receiving notice from the employee shall report the information to the Office of Background Investigations. Upon receipt, the Office of Background Investigations shall determine if a new background check is required. Failure to

report may result in disciplinary action pursuant to the Table of Penalties.

9. Suitability Assessment

a. If there are no mandatory disqualifying convictions, the Office of Background Investigations shall conduct a suitability assessment for employees applying for or occupying a sensitive position. A suitability assessment shall consist of the following information:

1) Criminal history reports, including arrest reports (federal, state, local, municipal and tribal jurisdictions)
2) Outstanding Warrants
3) Other negative information that may bear upon an individual's fitness to perform the duties of a sensitive position may be considered from other governmental entities including Navajo Nation courts, the Ethics and Rules Office, White Collar Crime Unit, Navajo Division of Public Safety, the Office of the Chief Prosecutor, the Department of Personnel Management, the Office of the Auditor General and State Motor Vehicle Departments.

10. Adjudication

The Office of Background Investigations shall issue a favorable or unfavorable determination based on the results of a background check and/or suitability assessment.

11. Navajo Nation Privacy and Access to Information Act

The Navajo Nation shall treat all documentation related to background check, suitability assessment and adjudication in accordance with the Navajo Nation Privacy and Access to Information Act.

L. Offer of Employment

1. The offer of employment will be extended by the Human Resources Director to the individual selected by the Program Manager if the selection is consistent with existing policies and criteria established for the job, except where the authority to offer employment is specifically delegated.

2. The Division Director and the program director/manager shall also approve the proposed pay rate before an offer of employment is made to an applicant.

3. The Division Director and the program director/manager shall not offer or approve employment if selection was done contrary to the Personnel Policies or Navajo Nation law.

M. Moving Expenses

Subject to the hiring program's availability of funds, moving expenses for key positions, in whole or in part, may be paid by the hiring program.

V. EMPLOYMENT STATUS

Employment status varies with the position and conditions of employment. Supervisors, working jointly with the Department of Personnel Management shall ensure that employees are properly designated.

A. The Navajo Nation has six categories of employment status:

1. Regular full-time

Employees who are hired to work the regularly established 40-hour workweek and who remain employed full-time upon completion of the introductory period.

2. Regular part-time

Employees who work less than the regularly scheduled 40-hour workweek but not less than 20 hours per week and who remain employed part-time upon completion of the introductory period.

3. Seasonal

Employees who work less than one year on a full or part-time basis due to the nature of the position and/or funding level. Seasonal employment is usually applicable to jobs that occur on an intermittent or seasonal basis.

4. At-will

There are two categories of at-will employees:

a. Professional at-will employees are those who serve at the pleasure of the Attorney General, Chief Prosecutor, Executive Director of the Navajo Nation Washington Office, the Public Defender Commission, or other official or

employee as provided by Navajo Nation law (See Definitions, Section XXI for reference to the Navajo Nation Code). This designation does not include any employee who receives deferred compensation.

b. Political at-will employees are those who serve at the pleasure of the President, the Navajo Nation Council, or the Speaker of the Navajo Nation Council. Political at-will employees receive deferred compensation.

5. Temporary

a. Temporary employees are those who are hired as interim replacements or to supplement the work force, or to assist in the completion of a specific project.

b. Employment of a temporary to fill a vacant regular status position is limited to a maximum of six consecutive months in a program's fiscal year.

c. Employment of a temporary in a 2320 account may be extended as necessary, except that if a temporary is employed continuously for one year, the program must justify maintaining the position as temporary or budget the position as regular status.

d. Employment of a temporary beyond any initially stated period does not in any way imply a change in employment status. Temporary employees retain that status unless and until notified of a change.

e. While temporary employees receive mandated benefits (such as workers' compensation insurance and Social Security), they are ineligible for Navajo Nation benefit programs including annual and sick leave accrual.

6. Volunteers

Persons who offer and provide unpaid assistance or services to the Navajo Nation for a specified time period. Supervisors must arrange for appropriate coverage under workers' compensation.

B. Introductory Period

The Introductory Period is intended to give employees the opportunity to demonstrate the capability to perform assigned job duties at a satisfactory level of performance and to determine whether the position meets their expectations. The Navajo Nation uses this period to evaluate employee capabilities, work habits, and overall performance.

1. Immediate supervisors will provide performance standards for successful completion of the introductory period.

2. These policies do not apply to temporary employees or At-will employees.

3. The three types of introductory periods are:

   a. 90-day Introductory Period
   All new employees, except At-will employees and Police Officers, hired in a regular or seasonal position will work on an introductory basis for the first 90 calendar days after their date of hire. The introductory period shall begin on the first day of employment and end at the end of the work day on the 90th calendar day. A regular status employee will be subject to only one new employee introductory period during any continuous term of employment, except that employees transferring to Police Officer positions will be required to serve a one-year introductory period.

   b. Supervisory Introductory Period
   An employee promoted or transferred to a supervisory position or higher level supervisory position, will be subject to a supervisory introductory period of 90 calendar days. An employee promoted or transferred to a supervisory position continues to utilize leave benefits during the supervisory introductory period.

   c. One Year Introductory Period
   All police officers are required to serve a one year introductory period; however, they shall be eligible to utilize leave benefits after 120 calendar days

4. Periods of temporary employment cannot be used to satisfy the introductory period requirement. Leave benefits accumulate but cannot be used during the 90-day introductory period.

5. During the introductory period, new employees are eligible for those benefits required by law, such as workers' compensation and Social Security. After obtaining regular status, employees will also be eligible for other Navajo Nation provided benefits, subject to the terms and conditions of each benefits program.

6. Unsatisfactory Performance or Conduct

   a. If, during the 90-day introductory period, the employee's performance or conduct is found to be unsatisfactory, the immediate supervisor may terminate the employee for just cause, provided that the employee is given contemporaneous written notification citing the reason(s) for the termination.

b. Termination of new employees within the introductory period voids accrued annual and sick leave. Supervisory and transferred employees will receive payment for all accrued annual leave.

7. Failure to Complete Supervisory Introductory Period

a. Employees failing to successfully complete their supervisory introductory period will be returned to their previous position, if it is available, at their prior rate of pay. If the previous position is not available, they will be considered for a comparable position. If a comparable position is not available, they will be laid off and placed on preferential status for re-employment.

b. Employees failing to satisfactorily complete a supervisory introductory period will not be considered for another supervisory position for a period of 12 months.

8. Extension of 90-day Introductory Period

a. If a supervisor determines that the introductory period for a new employee does not allow sufficient time to thoroughly evaluate the employee's performance, he/she may request that the introductory period be extended for thirty calendar days.

b. The supervisor's request to extend an employee's 90-day introductory period must include a statement regarding the employee's current performance levels in assigned areas of responsibility and justification for extension. The supervisor must also notify the employee of the extension, in writing, before the conclusion of the initial introductory period. If timely notice is not provided to the employee, the request will be denied.

9. If any introductory period is interrupted by an employee's extended absence due to medical reasons, the introductory period may be extended the number of calendar days the employee was absent.

10. Conversion to Regular Status

a. When an employee satisfactorily completes an introductory period, the immediate supervisor is required to submit a performance appraisal for him/her to the Department of Personnel Management along with the personnel action form. This will convert the employee's introductory status to regular status.

b. If the immediate supervisor fails to notify, in writing, the employee and the Human Resources Director of the conversion status at the end of any introductory period, the Human Resources Director is authorized to initiate action to convert the employee to regular status.

11. Re-employment after Break in Service

Former employees rehired after any break in service, are considered new employees and will be subject to another introductory period regardless of a previous completion. The exceptions are those re-employed after a layoff. They are eligible for reinstatement for a period of six months after layoff.

C. New Employee Orientation

1. New employees are required to attend an employee orientation within 90 calendar days of employment date. All supervisors shall allow new employees to attend the orientation as scheduled.

2. The new employee orientation shall include an overview of general operating policies and procedures, employee benefits, and an overview of the Navajo Nation organizational structure, and reporting relationships.

3. All employees are required to read and affirm in writing that they are familiar with the Personnel Policies Manual.

4. Supervisors are required to provide an employee orientation to newly hired and transferred employees. This orientation shall include program specific topics, such as work unit goals and objectives, office and workstation regulations, and job and performance expectations.

D. Basic Workweek

The basic workweek is seven days - Saturday through Friday. Standard hours of work for all employees are 40 hours per week.

E. Basic Tour of Duty

The basic tour of duty is from 8:00 a.m. to 12:00 noon and from 1:00 p.m. to 5:00 p.m., Monday through Friday.

1. Breaks

Employees are entitled to a midmorning and a mid-afternoon break, each break time not to exceed 15 minutes. Employees cannot accumulate break time.

2. Standby Duty

Certain work operations require that employees be placed on standby and available for duty. If called, employees required to remain on duty during emergency situations for extended periods will receive rest and meal periods.

3. Time Records

Time records will be maintained for each employee to accumulate and report the following: hours worked, hours absent, hours on approved leave, type of approved leave, and hours of unauthorized absence. Time records must be submitted for payroll purposes.

F. Alternative Work Schedules

1. Exceptions to the basic tour of duty may be approved by the Department or Program Managers with written notification and written work schedule submitted to the Department of Personnel Management, Payroll and Risk Management.

2. Alternative work schedules are generally dependent upon the specific working conditions and needs of the requesting program or department.

3. Department of Personnel Management will be responsible for developing and issuing procedures on the types of alternative work schedules available. (Flextime, compressed workweek, shift work, job sharing, and telecommuting)

VI. CLASSIFICATION OF POSITIONS

A. Policy

It is the policy of the Navajo Nation to establish and maintain a classification plan which groups jobs based upon similar duties, responsibilities, and qualification requirements.

B. Equivalency Clause

As stated in Section III.C. of this policy, the Equivalency Clause is eliminated. Henceforth, to establish job descriptions/classifications, programs must:

1. Establish minimum qualifications for a position (whether a certain number of years of experience, a specific educational requirement or both) required as a baseline for qualification assessments; and

2. Establish preferred qualifications for a position (whether a certain number of years of experience, a specific educational requirement or both) in seeking the best qualified candidate.

C. Position Classification Plan

1. Purpose

To establish and classify positions by assigning official class titles, providing descriptions of duties and responsibilities, determining qualification requirements and setting pay rates based on duties and responsibilities.

2. Modifications

Divisions/Departments will coordinate with the Department of Personnel Management to modify the position classification plan through establishing new classes, revising or abolishing existing classes, setting new entry level rates, and other related criteria, as necessary. Final authority to modify classification plan lays with the respective Division Director and Division of Human Resources Director.

3. Coverage and Exclusions

All positions, regardless of the source of funding, are covered by the classification plan except those designated as Political at-will and temporary accounts.

D. Classification of New Positions

1. A position must be officially classified before a supervisor can take any personnel action with respect to employment, transfer, promotion, demotion or salary.

2. The Divisions/Departments shall be responsible for evaluating and classifying each position to the appropriate class. Consideration

will be given to the general duties, tasks, responsibilities, and qualification requirements.

3. The approved class title, as designated by Department of Personnel Management, shall be utilized for all official records.

4. The Department of Personnel Management shall be responsible for maintaining the official class specifications and will provide each program a set of the relevant class specifications.

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E. Reclassification of Existing Positions

A position can be reclassified whenever a material and permanent change in the duties and responsibilities of the position occurs.

1. Significant and permanent changes in the duties and responsibilities of the position must be reported to the Department of Personnel Management on the appropriate form.

2. A position must be officially reclassified before a supervisor can take any personnel action with respect to employment, transfer, promotion, demotion, or salary. The Department of Personnel Management shall be responsible for evaluating and reclassifying positions with the direction and authorization of the Division of Human Resources Director.

3. Reclassification shall not be used as a means to resolve performance-related problems, grievance issues, or to take the place of disciplinary actions.

4. An employee occupying a reclassified position shall be entitled to continue to serve in the reclassified position, if the employee meets the qualification requirements and provided that the reclassification action does not result in the position being reclassified from a non-sensitive position to a sensitive position.

5. In the event that a position is reclassified from a non-sensitive position to a sensitive position, the employee shall be required to undergo a background check and relevancy assessment as outlined in Section IV.K prior to taking any personnel action with respect to change in position title and salary.

6. If the employee is a regular status employee, he/she will retain that status.

F. Notice of Classification or Reclassification Decisions

For each position classified or reclassified, the Department of Personnel Management will issue written notice of the decision to the Program Manager. The decision will specify the class to which the position has been allocated and the pay grade assigned. The supervisor will be responsible for initiating the necessary paperwork to reflect the decision.

G. Review of Classification or Reclassification Decisions

The supervisor may request a review of the classification or reclassification decision by filing a written appeal with the Human Resources Director. The review shall be conducted by someone other than the person making the original classification decision, and this person shall consult with the Human Resources Director in conducting the review. The results of the appeal shall be considered the final administrative decision.

H. Effective Date of Classification or Reclassification Decisions

The effective date of classification or reclassification decisions shall be the beginning date of the pay period following the date of approval by the Department of Personnel Management and shall not be retroactive.

VII. SALARY AND WAGE ADMINISTRATION

A. Policy

It is the policy of the Navajo Nation to pay wages and salaries that are commensurate with the type of work, the level of responsibility and the qualifications required for each job and that are comparable subject to budgetary constraints, to rates being paid for similar work within the Navajo Nation and in other comparable organizations, and to provide for salary adjustments for Navajo Nation employees that are equitable and competitive.

B. Applicability

These policies apply to all positions and employees, regardless of the funding source, except employees whose rates of pay are specifically set by legislation.

C. Salary and Wage Limits

1. Each position in the Navajo Nation government is evaluated using a classification system and is assigned a pay grade which

establishes the value of the position in relation to other positions within the Navajo Nation government.

2. The Official Salary Schedule provides pay grade for all classes. Each class title is assigned a pay grade in the approved salary schedule. For every pay grade, there is a "salary range" progressing from minimum to a maximum.

3. The last step of the pay grade assigned to a position provides the maximum limit employees will be paid for that job.

D. Salary and Wage Administration

1. Each position shall be reviewed by Department of Personnel Management, classified, and assigned to a grade within the pay structure that reflects an equitable value relative to other classifications.

2. The Department of Personnel Management will annually establish an appropriate pay structure consistent with G.5 herein and any other pay structures necessary to ensure internal and external equity based on the current market average.

3. Certain occupations may command Special Pay Ranges (premium pay) based on prevailing market pay levels. Department of Personnel Management is responsible for evaluating eligibility and determining the adjusted ranges.

   a. The special ranges shall be effective for one fiscal year.
   b. Continued eligibility for the special rate shall depend on an annual evaluation of market pay levels.
   c. If the special pay range is lower than the standard range, and range reduction results in an employee being above the maximum step, that employee's pay will be frozen until such time that it falls within the established range.

4. The Department of Personnel Management will adjust the pay rates of employees at certain worksites to reflect the cost of labor difference using appropriate locality pay data. This will include, but not be limited to, the Navajo Nation Washington Office.

5. The Department of Personnel Management may consider additional factors such as remoteness of worksite and hard to fill positions in determining and adjusting pay.

E. Appointment Rate

The Department of Personnel Management is responsible for reviewing

appointment rates based on the qualifications of the applicant compared to the established minimum qualifications for the position.

1. New employees will generally be assigned by Department of Personnel Management to Step “A” of the pay grade to which the position is assigned. No employee will be paid below Step “A”.

2. Applicants with qualifications greater than those required at entry level may be hired at a rate not to exceed the midpoint of the pay range assigned.

F. Special Recruitment Rates

When all recruitment and selection procedures have been followed and an applicant cannot be recruited, a special rate may be authorized. The authorization must be requested in writing and approved by the Human Resources Director prior to recruitment. Special rates are subject to division approval and funds availability.

G. Pay Adjustments

Pay adjustments resulting from a promotion, transfer or reclassification of a position are effective the pay period following the date of approval by the Department of Personnel Management and shall not be retroactive.

1. <u>Transfer</u>

If an employee is transferred from one position to another in the same grade (lateral) no pay adjustment will occur. If transferred to a position in a higher grade, see G.3 below. If transferred to a position in a lower grade, see G.4 below.

2. <u>Reclassification</u>

a. If an employee’s position is reclassified which results in the assignment of a higher pay grade, the employee’s pay will be adjusted as outlined in G.3 below. If the reclassification results in the assignment of a lower pay grade, the employee’s pay will be adjusted as outlined in G.4 below; or if the grade assignment remains the same, then no pay adjustment will occur.

b. The eligibility date for the next step increase will be adjusted pursuant to G.6 below whenever a pay increase occurs.

3. Promotion

An employee is promoted when he/she is moved from one position to another that is in a higher grade. Pay adjustments can be made as follows:

a. an employee meeting the minimum qualifications for the new position will be paid at Step "A"of the assigned pay grade.
b. notwithstanding G.1 above, based on an employee's qualifications, an increase of up to two steps may be granted and shall not exceed the maximum of the pay range assigned. The employee's eligibility date for the next step increase will be adjusted pursuant to G.6 below.

4. Demotion

An employee is demoted when he/she is moved from one position to another in a lower grade. His/her rate of pay shall be reduced to the same step in the lower pay grade or the entry level rate of the lower pay grade. The salary adjustment shall not be to a rate below Step "A".

5. General Wage Adjustment

Each year the Department of Personnel Management will recommend a General Wage Adjustment. The effective date will be determined by the Department of Personnel Management. All employees will receive that same percentage adjustment, with the exception of those assigned grade step code 99A. The General Wage Adjustment does not impact the eligibility date for employee step increases.

6. Step Increases

A regular status (full-time and part-time) employee whose performance is rated as "Significantly Exceeds Standards" or "Outstanding" will receive a step increase pursuant to the following:

a. An employee must have been in his/her current position for at least six months during the current rating period.
b. The step increase will be effective one year from the date of the last step increase or on the employee's anniversary date, if the employee is at Steps "A", "B", "C", "D", or "E", two years from the date of the last step increase or on the employee's anniversary date, if the employee is at Steps "F", "G", "H", or "I", or three years at Steps "J" and "K". If the employee is at Step "L", no step increase will occur.

7. Acting Status Assignment

a. An employee on acting status assignment must be compensated at the first step of the assigned grade for the duration of the assignment if he/she meets the requirements of the position and is approved by the Department of Personnel Management prior to the assignment.

b. If an employee's current salary equals or exceeds entry level for the acting status position, the employee may receive a one step increase for the duration of the assignment.

H. Holiday Pay

1. Any employee who is required to work on a holiday and does work shall be paid at twice his/her regular rate of pay for hours worked.

2. Holiday pay will cover only those hours worked in one day.

3. Early release of employees is not counted as a holiday when calculating holiday pay.

I. Merit Pay Bonus

Merit pay bonus payments are lump sum payments, excluding applicable taxes and deductions, awarded to employees for performance.

1. Cash awards may be given to eligible employees based on their overall performance during the applicable rating period.

a. Eligibility for Merit Pay

1) An employee must be regular status (full-time and part-time) with at least one year of continuous service with the Navajo Nation and six months in his/her current position.

2) An employee must be recommended for merit pay by the immediate supervisor and approved by the Department of Personnel Management.

3) An employee must have an overall performance rating of "Significantly Exceeds Standards" or "Outstanding".

4) An employee is deemed ineligible for merit pay if he/she terminates employment prior to the Department of Personnel Management's approval.

5) An employee must not have received a step increase or bonus for the same rating period.

2. Merit bonus payments will be processed in accordance with procedures developed and issued by the Department of Personnel Management.

J. Bonus Payments

When it is determined by the Department of Personnel Management to be in the best interest of the Navajo Nation, bonus payments may be considered and approved. Department of Personnel Management will address these requests on a case-by-case basis.

K. Shift Differential

Shift differential may be paid provided funds are available and a request is approved by the Department of Personnel Management. Shift differential will be consistent with local industry practices.

L. On Call

Department of Personnel Management is responsible for developing and issuing procedures for compensation of employees on call.

M. Pay Advances

1. An employee may request a pay advance in the following situations:

   a. When an employee is required to travel on official business. Travel must be in accordance with existing travel policies.
   b. Serious illness or death in the immediate family. See procedures for requesting “emergency” pay advances for serious illness or death in the immediate family issued by the Office of the Controller.

2. All pay advances will be deducted in accordance with the current payroll processing.

VIII. OVERTIME

A. Policy

It is the policy of the Navajo Nation to authorize overtime when necessary to meet essential operating needs of the Navajo Nation subject to existing funding and contract requirements.

B. Exempt/Non-exempt Classification

All positions will be classified as either exempt or non-exempt to determine eligibility for overtime compensation.

1. Exempt: managerial, professional, and administrative positions. Employees assigned to exempt positions are not eligible for overtime compensation.

2. Non-exempt: nonsupervisory or office staff positions. Employees assigned to non-exempt positions are eligible for overtime compensation.

3. Department of Personnel Management is responsible for determining the exempt or non-exempt status of each position.

C. Authority to Approve Overtime

The Program Manager may authorize overtime consistent with these policies. However, prior to working overtime, non-exempt employees must agree to the type of compensation preferred, cash payment, compensatory time off, or a combination of the two.

D. Employee Notification

The Program Manager shall notify the employee in advance that overtime is necessary and the employee is expected to work. In assigning overtime, the Program Manager will take into account employee preference for overtime assignments. To the extent feasible, overtime shall be distributed equally among full-time employees of the same classification.

E. Compensation for Overtime Work

1. Cash Payment – Whenever an employee is approved to work overtime, payment for the overtime must be processed within the next pay period ending.

   a. Non-exempt employees shall be paid for overtime at the rate of one and one-half times their regular rate for hours worked which exceed forty hours of actual work in a workweek. Exception: Employees engaged in public safety activities will be paid the overtime rate for hours worked which exceed eighty hours of actual work in a pay period.
   b. Non-exempt employees shall be paid at their regular rate of pay when the actual hours worked is equal to or less than 40 hours in a workweek. Employees engaged in public safety activities shall be paid at their regular rate when the actual

hours worked is equal to or less than 80 hours in a pay period.

c. A non-exempt employee shall be paid for any accrued and authorized overtime, including accrued compensatory time, by the work unit in which the overtime was worked, upon transfer, change in funding source, or termination.

2. Compensatory Time Off

In lieu of cash payment, an employee may be eligible to earn compensatory time subject to the following:

a. For non-exempt employees, compensatory time shall be calculated in the same manner as cash payment in E, above.
b. Compensatory time off shall be arranged by the employee and the supervisor. Supervisors shall properly account for Compensatory time earned and taken by employees.
c. For non-exempt employees, compensatory time off must be taken within 90 days of the time it was earned, otherwise programs are required to compensate employees in cash payment.
d. An employee may not accrue more than 120 hours of compensatory time, unless the employee is engaged in essential public safety activities or emergency response activities. These employees may accrue up to 240 hours of compensatory time. Any overtime hours worked in excess of these limits must be compensated in cash payment until the number of accrued hours of compensatory time falls below the limit.

F. Reporting of Overtime

All authorized and earned overtime and compensatory time must be recorded on the official time sheet. Only hours reported on the time sheet will be accepted and approved for cash payment or compensatory time off.

IX. EMPLOYEE BENEFITS

A. The Navajo Nation offers several benefit programs for employees. Eligibility may be based on length of service, employment status or salary. Specific descriptions of the benefits are available from the following Programs: Tribal Retirement Office, Employee Benefits Office, Workers' Comp and Employee Assistance. Additional benefit programs may be added or others deleted as approved.

B. Paid Holidays

1. The following days shall be recognized as paid holidays:

New Year's Day	January 1
Martin Luther King Day	Third Monday in January
President's Day	Third Monday in February
Navajo Nation Sovereignty Day	Fourth Monday in April
Memorial Day	Last Monday in May
Navajo Nation Memorial Day	June 1
Independence Day	July 4
Navajo Nation Code Talker’s Day	August 14
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Navajo Nation Family Day	Friday following Thanksgiving Day
Christmas Day	December 25

Additional holidays include any day designated as a holiday by federal statute, Executive Order of the President of the United States, or action of the Navajo Nation Council, the President of the Navajo Nation, or the Speaker, Navajo Nation Council.

2. All employees except temporary employees are eligible for paid holidays.

3. Holidays falling on a Saturday will be observed on the preceding Friday. Holidays falling on a Sunday will be observed on the following Monday.

4. An eligible employee with an unexcused absence on normal work days prior to or after a designated paid holiday, will not be paid for the holiday.

5. If a holiday occurs when an eligible employee is on approved leave, the absence will not be charged against his/her accrued leave.

6. An eligible employee who is on a scheduled day off when a holiday is observed will be paid at his/her regular rate of pay.

7. An eligible employee required to work on a designated holiday who does not report to work and is not excused, will forfeit the holiday pay.

8. Any employee who is required to work on a holiday and does work shall be paid at twice his/her regular rate of pay. (See Section VII. H). Employees working on a holiday will not be given equivalent time off before or after the holiday.

C. Leaves of Absence

Employee benefits include leaves of absence. See Section X for discussion on the types of leave.

D. Staff Development and Training

Employees are encouraged to participate in job related training to enhance job performance, develop and strengthen skills, and to keep current on specific developments and trends. The Staff Development and Training Program is responsible for monitoring and administering training activities.

X. LEAVE ADMINISTRATION

A. General Leave Policies

1. <u>Use of Leave</u>

Employees will earn annual and sick leave, however, when and how these leave benefits are used is subject to supervisory approval. Employees should keep in mind that the use of leave is granted as a privilege rather than a right. It should also be clearly understood that leave is granted to employees at such times as they can be conveniently spared from work. Use of leave may be subject to verification and improper use of leave may be denied. Leave may be denied due to the requirements of the workload, except as provided herein.

2. Application for Leave

Except in emergency circumstances or as provided below, application for leave of any kind or duration must be initiated by the employee in writing and presented to the authorized supervisor for approval prior to taking leave. If an employee is incapacitated, the supervisor may place the employee on appropriate leave.

3. Leave Year

The leave year shall consist of 26 pay periods and shall begin with the first complete pay period in any given calendar year and end with the 26th pay period.

4. Years of Service for Leave Benefits

Years of service shall include all periods of continuous employment with the Navajo Nation Government. Years of service shall not include employment with entities, enterprises, or chapters of the Navajo Nation. In addition, service prior to a break in service will not be included unless the break in service was the result of a reduction in force and the employee was reinstated within six months of the lay off.

B. Paid Leave

1. Annual Leave

Annual leave is authorized absence for rest, recreation or other purposes when approved by the supervisor.

a. Eligibility

1) Regular status employees are eligible to accrue annual leave hours.
2) Temporary employees are not eligible.
3) Employees on any type of leave without pay are not eligible.
4) Political at-will employees are not eligible.

b. Limitations

1) Employees serving a new employee introductory period can accrue annual leave but cannot use accrued annual leave until after they have been converted to regular status.

2) Termination within the new employee period voids all accrued annual leave hours.

c. Accrual Rate

1) Eligible employees will accrue annual leave at the following rates:

Yrs of Service	Nonexempt Employees Per Pay Period	Exempt Employees Per Pay Period
Less than 3 years	4 hours	6 hours
3 years to 12 years	6 hours	8 hours
More than 12 years	8 Hours	10 Hours

2) Eligible regular part-time and seasonal part-time employees accrue annual leave on a pro rata basis.

d. Extension of Sick Leave

Annual leave may be approved as an extension of sick leave upon exhaustion of accrued sick leave.

e. Carryover

At the end of each leave year, all hours in excess of 320 hours shall be forfeited. Forfeited hours shall not be paid.

f. Change of Employment Status

1) An employee transferred to a position in which annual leave does not accrue will be paid for all accrued annual leave hours earned in his/her prior position.
2) An employee who transfers to another regular status position shall have all accrued annual leave hours transferred.

g. Liquidation of Annual Leave

Upon separation from employment, an employee shall be paid for all accrued annual leave hours. Payment will be included in the final paycheck subject to deductions for any indebtedness owed to the Navajo Nation.

2. Sick Leave

Sick leave is authorized time off from work granted an eligible employee due to: his/her own illness, injury, or disability or that of a spouse, children, or parents. This includes but is not limited to incapacitating, contagious, or chronic illness, disability caused by pregnancy, childbirth or related medical circumstances, illness or injury that requires examination, treatment or visits to a licensed practitioner, medicine man or health-related counselor. Employees referred by EAP for treatment, counseling or to other resources may also be eligible for sick leave.

a. Eligibility

1) Regular status employees are eligible to accrue sick leave hours.
2) Temporary employees are not eligible.
3) Employees on any type of leave without pay are not eligible.
4) Political at-will employees are not eligible.

b. Limitations

1) Employees serving a new employee introductory period can accrue sick leave but cannot use accrued sick leave until after they have been converted to regular status.

2) Illness or other medical conditions which exhaust an employee's sick leave may require that annual leave and leave without pay be used.

c. Accrual Rate

Eligible employees will accrue sick leave from the date of employment at the following rates:

Employee Status	Accrual Rate Per Pay Period
Regular/Seasonal Full-Time	4 Hours
Regular/Seasonal Part-Time	2 Hours

d. Physician's Statement

An employee is required to submit written proof of illness or disability from a physician for absences of three or more consecutive work days. If an employee's sick leave record warrants, a statement may be required for less than three days.

e. Traditional Healing Ceremonies

An employee must request and obtain prior approval for the absence. The employee may be required to submit a written statement from the medicine man performing the ceremony if the employee's absence due to traditional healing ceremonies warrants verification or if the ceremony is three or more consecutive work days.

f. Carryover

Eligible employees may carry over an unlimited number of unused sick leave hours from leave year to leave year. However, no employee shall be paid for unused sick leave hours upon termination.

g. Change in Employment Status

1) An employee who transfers to a position in which sick leave does not accrue shall forfeit all sick leave hours.
2) An employee who transfers to another regular status position shall have all accrued sick leave hours transferred.

h. Reinstatement of Sick Leave

Sick leave hours shall only be restored when a former employee with reemployment preference is rehired within six months of separation from employment.

i. Forfeiture of Sick Leave

Termination within the new employee introductory period voids all accrued sick leave hours. Forfeited sick leave may not be restored.

3. Administrative Leave

Administrative leave is leave with pay and may be granted by an appropriate authority of the Navajo Nation in the following situations:

a. Early release

1) Early release of employees due to: extreme weather conditions, or any other reason determined by the President, Speaker or their designees to be appropriate. Advance notice of early release shall be in writing and signed by the President, Speaker or their designees.
2) Early release shall not apply to employees on leave, travel or whose tour of duty does not cover the period of the early release.

b. Temporary closure of employee work sites or facilities due to environmental health hazards or other safety or health reasons. Administrative leave shall not be granted when affected employees can reasonably be assigned to alternative work sites.

c. Investigations

A Program Manager may place an employee on administrative leave to investigate alleged misconduct sufficiently serious to bar an employee from the premises to protect persons or Nation resources. Such leave may not exceed five consecutive working days.

1) Immediate written notice shall be given to the employee of the leave, its purpose and duration, and specific reasons therefore. The employee shall be required to leave the premises immediately.
2) Upon conclusion of the investigation or the end of the administrative leave, whichever occurs first, if no disciplinary action is taken, the employee shall be allowed to return to work.

3) When disciplinary action is deemed necessary, it shall be taken in conformance with the appropriate provisions of Sections XIII. and XV. herein.

4) Extensions may be granted by the Department of Personnel Management by recommendation of the Program Manager, but total administrative leave for investigatory purposes shall not exceed 20 working days.

d. Witness Summons

1) An employee summoned or subpoenaed by any party or tribunal, including the grievance hearing officer, to be a witness in an official capacity, shall not be required to take leave since the employee will be representing the Navajo Nation. However, the employee must immediately inform the supervisor of the proposed absence.

2) If an employee is summoned to be a witness as a private citizen, or as a witness for the aggrieved party in a grievance hearing, the employee will be authorized annual leave. If annual leave is exhausted, leave without pay will be used.

e. Jury Duty

Employees are required to notify their supervisor promptly upon receipt of a jury summons and subsequent notice to serve as a juror. Employees summoned for jury duty, including military jury duty, will receive their regular rate of pay for normal work hours, provided the employee submits evidence of the summons and selection notice. Fees received as compensation for jury duty shall be paid to the Navajo Nation except when an employee voluntarily requests annual leave for the period of absence. Employees will be allowed to retain any reimbursements for transportation, lodging, meals etc. paid by the respective court jurisdiction.

f. Time Off for Voting

1) Registered voters may receive authorization for up to two hours paid absence from work to vote in a Navajo Nation, local, state or federal election. The length of absence will be granted at the discretion of the immediate supervisor.

2) Employees required to vote at a poll remote from their workstations may request an extension of the two-

hour limit. The extension, if granted, will be charged to the employee's annual leave. This extension includes travel time to the poll but may not exceed eight hours.

g. Professional Licensure and Certification

1) An employee may be authorized administrative leave to obtain appropriate job related professional licensure or certification or to satisfy continuing education requirements to retain such licensure or certification.
2) An employee will be given two opportunities to obtain licensure or certification. Thereafter, he/she will be required to take annual leave or leave without pay.
3) Any special conditions regarding the length of leave, payment of expenses, reimbursement, grades, employment status, service to the Navajo Nation, etc. will be arranged between the Program Manager and the employee.

C. Unpaid Leave

1. Approved Leave Without Pay

Leave without pay not to exceed 15 working days may be granted by the supervisor. Requests for leave without pay exceeding 15 working days must be supported by a written recommendation of the supervisor and approved by the Division Director. Except for family and medical leave, annual or sick leave, if applicable, must be exhausted before entering approved leave without pay status. Consideration shall be given to the merits and circumstances together with the programmatic operations.

2. Unauthorized Absence

When an employee is absent without authorization, the employee will be charged with absence without approved leave and may be subject to disciplinary action. If the absence is later approved, the charge to absence without approved leave may be changed to the appropriate leave.

3. Disciplinary Actions

An employee placed on suspension is generally considered to be on leave without pay status; however, a supervisor may place an employee on a working paid suspension. Annual and sick leave do not have to be exhausted.

4. Educational Leave

Educational leave may be granted when an employee enrolls as a full-time student in an accredited educational institution.

a. The purpose of educational leave is to enhance an employee's job performance and therefore must be job related. All requests shall be approved by the Program Manager.
b. Educational leave shall be without pay unless the Program Manager and employee agree that annual leave may be used.
c. Regular full-time employees are eligible for educational leave up to one semester (or equivalent) per academic year provided they have three years of continuous employment with the Navajo Nation Government.
d. An employee on approved educational leave shall maintain regular full-time status.
e. Upon completion of educational leave, an employee shall return to his/her position.

D. Family and Medical Leave

Family and medical leave of absence is approved unpaid leave available to eligible employees for up to six months per year under particular circumstances that are critical to the life of a family.

1. Family and medical leave may be taken only in the following situations:

a. upon the birth of the employee's child;
b. upon the placement of a child with the employee for adoption or foster care;
c. when the employee is needed to care for his/her child, spouse, or parent who has a serious health condition; or
d. when the employee is unable to perform the functions of his/her position because of a serious health condition.

2. Limitations

a. The first three months of leave are nondiscretionary; if the leave is requested consistent with these policies, the supervisor must approve the leave.
b. The second three month period is discretionary. The supervisor has the authority to approve/disapprove the leave. Reason(s) for the additional leave requested must meet the criteria herein and be based on 1 a-d above.

3. Eligibility

Regular status employees who have been employed for one year are eligible for family and medical leave.

4. Basic Regulations and Conditions

a. Employees are required to submit medical certification to support a claim for leave for an employee's own serious health condition or to care for a seriously ill child, spouse, or parent.
b. Spouses who are both employed by the Navajo Nation may take a total of six months of leave (rather than six months each) for the birth or adoption of a child or the care of a sick parent, subject to the limitations in D.2 above.
c. When the need for leave is foreseeable, such as the birth or adoption of a child, or planned medical treatment, the employee must provide notice as far in advance as practicable, and make efforts to schedule leave so as not to disrupt program operations.
d. In cases of illness, the employee will be required to report periodically to the immediate supervisor on his/her leave status and intention to return to work. A medical certification is required to resume work.
e. Upon return from family and medical leave, an employee shall return to the same position.
f. During the employee's absence, his/her position may be filled on a temporary basis.
g. An employee's failure to return to work after the duration of approved family and medical leave and any other authorized leave, shall be deemed a resignation.
h. Department of Personnel Management is responsible for developing and issuing procedures on family and medical leave.

5. Status of Employee Benefits During Leave of Absence

a. Any employee who is granted an approved leave of absence under this policy shall provide for the retention of group insurance coverage by arranging to pay his/her premium contributions during the period of unpaid absence.
b. An employee will not lose service credit with the Navajo Nation as a result of the family and medical leave, but he/she will not accrue annual or sick leave and is not eligible for paid holidays.

E. Furlough

Furlough is the placement of a Seasonal employee into temporary non-duty non-pay (leave without pay) status due to lack of work, closure of facilities for a specific period or time, or closure due to circumstances beyond the control of the program.

1. Seasonal employees may be eligible for furlough status upon verification of continued funding for the next season or intermittent employment.

2. Employees will be provided written notice from the Program Manager of the furlough 15 calendar days prior to the beginning of the furlough period. The notice will include the effective date of the furlough, the date to return to duty and pay status.

3. The Program Manager shall also provide written notification to each employee on furlough status of the date to return to duty 15 calendar days prior to the effective date of return.

4. Each employee shall be provided a record of his/her accrued annual and sick leave hours before going on furlough status. This accrued leave will be maintained until the employee returns to active duty and pay status or is separated from employment.

5. To retain his/her regular status, a Seasonal employee on furlough may only obtain temporary employment with the Navajo Nation during the furlough period. If the employee does not wish to return to the program placing him/her on furlough, a resignation must be submitted and processed to clear the employee to obtain other employment.

6. Employees provided written notification to return to work and who fail to report by the established return to duty and pay status date, may be subject to termination.

7. Insurance premiums must be paid for the furlough period. Upon notification of furlough, the program and affected employees can make arrangements for payment of premiums with the Employee Benefits Office.

8. These policies do not apply to other categories of employees.

9. The period of furlough cannot exceed six months from the date of furlough.

XI. EMPLOYEE PERFORMANCE APPRAISAL

A. Policy

The policy of the Navajo Nation is to encourage and promote optimal employee performance using program management objectives. Every employee must receive a performance appraisal at least once a year.

B. Purpose

The purpose of the Employee Appraisal is to evaluate past job performance and set standards for future performance.

C. Duties and Responsibilities

1. Supervisors shall be responsible for evaluating past performance pursuant to procedures issued by Department of Personnel Management.

2. At the beginning of each review period, supervisors will be responsible for establishing specific objectives and performance standards consistent with program objectives and current job description.

3. Department of Personnel Management shall issue procedures regarding performance appraisals and establish review periods and timelines for submission of appraisals.

4. Department of Personnel Management shall monitor the completion of employee performance appraisals.

5. Supervisors are responsible for ensuring that performance appraisals are submitted for all employees by the established deadline date. Failure to submit appraisals by established deadline date will result in disapproval of step increase and/or disciplinary action.

D. Unsatisfactory Performance

An employee whose job performance is unsatisfactory is subject to disciplinary action as set forth in the Table of Penalties.

E. Merit Pay

Performance evaluations serve as the basis for awarding merit pay. Merit pay provisions are set forth at Section VII.I.1-2 herein. The Department of Personnel Management will issue procedures.

XII. CHANGES IN ASSIGNMENT

A. Policy

The Navajo Nation may, at its discretion, initiate or approve changes in assignment of employees from one position to another or from one worksite to another. Pursuant to Section IV.K, employees applying for or being considered for a change in assignment that result in movement from a non-sensitive position to a sensitive position shall be subject to the required background check and suitability assessment.

B. Applicability

These policies apply to all regular status employees.

C. Transfers

All transfer decisions will be made in accordance with applicable laws and Navajo Nation policies, procedures, rules and regulations. To the extent possible, Program Managers will make transfers that are voluntary.

1. <u>Intra-departmental Transfer</u>

   a. A Program Manager, upon submittal of a written request and approval by the Department of Personnel Management, may transfer a regular status employee to a position in the same pay grade.
   b. A Program Manager, upon written request by a regular status employee and approval by the Department of Personnel Management, may transfer the employee to a position in the same pay grade.

2. <u>Interdepartmental Transfer</u>

   A regular status employee may transfer to a position in the same pay grade in another department upon written request by the employee and approval of the current Program Manager and the gaining Program Manager as well as the Department of Personnel Management.

3. <u>Qualifications</u>

   An employee shall possess the knowledge, skills and abilities required for the position as identified in the class specification for the position to which transferred.

4. Transfers are not final until approved by the Department of Personnel Management.

5. An employee shall not be transferred during an introductory period.

6. Transfer of Function

In the event that, by legislative action or otherwise, part or all of the functions of a program are transferred to another division or department the affected employees of the transferring program shall be accepted as transfers by the receiving division at the same pay grade.

D. Promotions

1. Job vacancies may be filled by promotion when practicable and in the best interest of the Navajo Nation.

2. It is the employee's responsibility to pursue promotion by:

   a. attaining the necessary skills, training, education and professional certification; and
   b. submitting a letter of interest to the supervisor and an updated application for employment and resume to the Department of Personnel Management.

3. The supervisor is responsible for submitting a written justification for promotion to the Department of Personnel Management.

4. The Department of Personnel Management upon determination that the employee meets the requirements of the position, will approve the promotion and the salary.

5. Promotions do not become effective until final approval is obtained from the Department of Personnel Management.

E. Demotions

1. Involuntary - An employee may be demoted for cause or as a result of disciplinary action based on work performance pursuant to Section XIII.B herein. Notwithstanding Section XIV.A involuntary demotions are grievable actions.

2. Voluntary Grade Decrease – An employee may request a change in assignment to a position with a lower pay grade. The employee shall possess the knowledge skills, and abilities required of the new position. An employee is not eligible to grieve or appeal an approved voluntary demotion.

3. Demotions are permanent personnel actions unless stated otherwise.

F. Acting Status Assignment

An acting status assignment usually involves assigning a regular status employee to a supervisory position during the extended absence of an incumbent or a position vacancy. An acting status assignment shall not be less than 30 calendar days and shall not exceed 180 calendar days. Acting status assignments must have the prior approval of Department of Personnel Management.

1. An acting status assignment must be voluntary. The employee must meet the requirements of the position to which he/she is being assigned.

2. The request for acting status assignment must be in writing and submitted to the Department of Personnel Management for approval. The request shall include the following:

   a. the nature, time period and expected results of the assignment;
   b. assigned duties and responsibilities;
   c. reporting relationships, signatures of the appropriate supervisors and the employee;
   d. the appropriate salary adjustment for the period of assignment; and
   e. an updated application and resume of the employee being considered for the acting status assignment.

3. The Department of Personnel Management upon determination that the employee meets the requirements of the position will approve the assignment and the effective date.

4. An employee who completes an acting status assignment will return to his/her previous position and resume regular duties at the previous grade/step.

5. Additional compensation for acting status assignments is covered under Section VII. G.7 herein.

G. Special Assignments

A regular status employee may be assigned to a special detail for not less than 30 days and not to exceed 180 calendar days, when it's determined to be in the best interest of the Navajo Nation. The Department of

Personnel Management on a case-by-case basis will approve special assignments.

1. A written request must be submitted to the Department of Personnel Management and shall include:

    a. justification for the special assignment, the time period, and expected results of the assignment;
    b. the assigned duties and responsibilities of the employee during the special assignment;
    c. reporting relationships and signatures of the appropriate supervisor(s) and the employee.

2. An employee on special assignment will not receive additional compensation.

3. Upon completion of a special assignment, an employee will resume his/her regular duties.

H. Change in Worksite

1. A change in worksite is strictly limited to moving an employee from one location to another within the same program. A change in account number may be necessary but there shall be no changes to the employment status, title or salary.

2. A change in worksite may be voluntary or initiated by the supervisor to ensure effective and efficient operations.

3. A change in worksite shall not be used for disciplinary reasons.

4. A change in worksite may be temporary or permanent.

5. A request for change in worksite of an employee must be submitted to the Human Resources Director outlining the following:

    a. the reason(s) for the change in worksite, the time period and expected results of the assignment; and
    b. reporting relationships; and
    c. signatures of the appropriate supervisors and the employee.

XIII. DISCIPLINE OF EMPLOYEES

A. Policy

The policy of the Navajo Nation is to establish and maintain standards of employee conduct and supervisory practices which will support and

promote effective program operations. Such practices include the administration of consistent and constructive employee discipline.

B. Guide for Disciplinary Action

Supervisors at all levels are expected to assume responsibility for reporting and initiating proper action regarding employee misconduct, unsatisfactory work performance, or violation of personnel policies or regulations.

1. Employees, including supervisors, whose job performance or conduct is unsatisfactory, or who violate the law, Nation policies, practices, rules, or regulations are subject to disciplinary action consistent with the Table of Penalties.

2. Supervisors should refer to the Table of Penalties or the Department of Personnel Management for assistance in initiating disciplinary action.

C. Authority to Administer Disciplinary Action

1. Program Managers (see definition section) shall have the authority and responsibility to administer appropriate disciplinary action for violations of law, Nation policies, practices, rules and regulations.

2. When supervisors fail to administer personnel policies or initiate disciplinary action, the Human Resources Director shall notify the supervisor's superior. The Human Resources Director may also initiate appropriate disciplinary action against the supervisor and/or his/her superior.

D. Documentation

1. All disciplinary actions shall be documented in writing by the supervisor.

2. Documentation of disciplinary actions will become part of the employee's personnel record subject to G.2 below. Supervisors administering disciplinary action shall provide copies of such actions to the Department of Personnel Management.

E. Notice

Notice of disciplinary actions should be hand delivered whenever practicable or sent by certified mail. Notice by certified mail shall be effective upon delivery of notice by the U.S. Postal Service.

F. Contents of Disciplinary Notice

The disciplinary notice shall be in writing, directed to the employee and shall contain:

1. an appropriate identification of the party, including position title and department; and

2. the date(s) on which the violation(s) occurred, or where such acts are of a continuing nature and are the basis for the disciplinary action, the period of time when the acts occurred; and

3. a reference to the Table of Penalties regarding the offense(s) committed and the penalty imposed; and

4. a clear and concise statement of the facts constituting the alleged violation(s); and

5. an explanation of the employee's right to appeal the disciplinary action pursuant to Section XIV Employee Grievance; and

6. if hand delivered, the employee's acknowledgment of receipt of the notice, or if employee refuses to acknowledge, the notation that employee refused to sign and the date.

G. Table of Penalties

Those responsible for the administration of discipline must be firm, impersonal, and free from prejudice. In the interest of administering justice as uniformly as possible in accordance with the policies stated, a Table of Penalties is incorporated herein.

1. In cases of less serious performance and/or conduct issues, supervisors are encouraged to discuss such deficiencies with their employees before initiating any formal disciplinary action under the Table of Penalties.

2. A reprimand may also be appropriate for less serious offenses prior to taking formal action. Such action may not be grieved under this section of the Manual, nor will it be included in the employee's personnel file maintained by the Department of Personnel Management. However, a written reprimand may be maintained by the department or program issuing the notice.

3. Supervisors shall be specific in describing the time period constituting an employee’s suspension, and shall include both the dates and hours when the suspension begins and ends. Holidays shall be counted in computing the suspension period.

4. Suspensions imposed under the Table of Penalties are generally without pay, and require the employee to remain away from the workplace during the period of suspension. At the discretion of the supervisor, an employee may be placed on a working paid suspension. During the period of suspension, the employee shall continue to carry out his/her regular duties at the workplace. A paid suspension is grievable.

5. In addition to the penalties listed, employees are reminded that depending upon the offense(s) committed, they may be subject to prosecution under Navajo Nation or other applicable laws and/or be deemed ineligible for future employment with the Navajo Nation.

6. Employees who violate Navajo Nation or other applicable laws may also be subject to penalties provided for in those laws. Such violations may or may not lead to disciplinary action by the supervisor.

7. For those employees paid by a contract or grant, where the funding source requires greater disciplinary measures than those outlined in the Table of Penalties, or penalties other than those listed, such disciplinary action may be imposed consistent with the funding source requirement.

8. Where one set of circumstances warranting disciplinary action violates more than one offense listed in the Table of Penalties, supervisors must allocate the total penalty among each separate offense charged.

   For example, if an employee is charged with three separate offenses, and the penalty for all three offenses totals ten working days suspension, the supervisor must allocate the ten days among all three offenses.

9. Employees shall not be penalized for multiple offenses arising from the same conduct or event.

TABLE OF PENALTIES

OFFENSE	FIRST PENALTY	SECOND PENALTY	THIRD PENALTY
1. Theft of property	Removal		
2. Misuse of Nation funds	Removal		
3. Solicitation or acceptance of bribes or kickbacks	Removal		
4. Falsification or unauthorized alteration of any Nation record	Removal		
5. False statement(s) of material fact in employment application or related documentation	Removal		
6. Maintaining second or outside employment without proper approval including, but not limited to, holding a salaried elected office, self-employment, etc.	Removal		
7. Contracting or recommending a contract with a party where the employee has an equity or other beneficial interest, limited only to employees who have influence over the contracting process	Removal		
8. Fraud and/or conspiracy to commit fraud	Removal		
9. Perjury in court or before an official Navajo Nation body or tribunal	Removal		
10. Concealing, removing, mutilating, obliterating, or destroying Navajo Nation records or documents without authorization	Removal		
11. Abuse of office or position	Removal		
12. Failure to directly call or report to the immediate supervisor for three (3) consecutive working days	Removal		
13. Planning, initiating participating in or otherwise aiding or assisting in the conduct of any riot or unlawful demonstration.	Removal		
14. Failure to complete the background check required by Section IV.K.	Removal		
15. Egregious misconduct which calls into question one's fitness for continued employment in that position with the Navajo Nation.	Suspension (up to 30 working days), Demotion, or Removal	Removal	

TABLE OF PENALTIES

OFFENSE	FIRST PENALTY	SECOND PENALTY	THIRD PENALTY
16. Sexual harassment	Suspension (up to 30 working days) or Removal	Removal	
17.a Operating a tribal vehicle under the influence of alcohol.	Removal		
17.b Operating a vehicle under the influence of alcohol or other controlled substance (except when controlled substance is used as prescribed).	Suspension (up to 30 working days) or Removal	Removal	
18. Malicious damage to Nation property including, but not limited to, graffiti, vandalism, etc.	Suspension (15 - 30 working days) or Removal	Removal	
19. Violation of any provision contained in Section XVI.E, Drugs and Alcohol in the Workplace	Referral to EAP and/or Suspension (15 - 30 working days) or Removal	Removal	
20. Failure to abide by policies and standards adopted in accordance with Section I.C	Suspension (up to 15 working days) or Removal	Suspension (up to 30 working days) or Removal	Removal
21. Endangering the physical well-being of any individual including, but not limited to, threats of, or actual violence.	Suspension (up to 15 working days) or Removal	Suspension (up to 30 working days) or Removal	Removal
22. Disclosing confidential Nation information to unauthorized person(s)	Suspension (up to 15 working days) or Removal	Suspension (up to 30 working days) or Removal	Removal
23. Misuse of Nation property or services	Suspension (up to 15 working days)	Suspension (up to 30 working days)	Removal
24. Insubordination, includes violation of any policy contained in this manual	Suspension (up to 15 working days)	Suspension (up to 30 working days)	Removal
25. Neglect of duty	Suspension (up to 15 working days)	Suspension (up to 30 working days)	Removal
26. Unauthorized absence	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
27. Excessive absenteeism, including tardiness	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
28. Unsatisfactory work performance	Suspension (up to 10 working days)	Suspension (up to 30 working days) or Demotion	Demotion or Removal

TABLE OF PENALTIES

OFFENSE	FIRST PENALTY	SECOND PENALTY	THIRD PENALTY
29. Failure to complete performance evaluations as required	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
30. Performing activities for personal gain when on the job including, but not limited to, campaigning for political office while on official tour of duty	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
31. Mistreatment of any individual(s) which jeopardizes health or safety	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
32. False witness against employee(s)	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
33. Offer of employment by unauthorized personnel	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
34. Violation of safety regulations which endangers oneself or others	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
35. Possession of unauthorized weapon(s) in the workplace	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
36. Failure to comply with motor vehicle regulations including, but not limited to, use of a tribal vehicle for personal reasons	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
37. Creating discord among fellow employees leading to decreased productivity or a hostile working environment	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
38. Failure to treat the public or fellow employees with courtesy	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
39. Use of abusive or vulgar language and/or gestures	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal
40. Display of intoxication on the job (including use of restricted drugs not in conformance with a medical prescription)	Mandatory evaluation by Employee Assistance **and** Suspension (up to 30 working days) or Removal	Suspension (30 working days) or Removal	Removal
41. Habitual use of intoxicants to excess which affects job performance	Mandatory evaluation by Employee Assistance **and** Suspension (up to 30 working days) or Removal	Suspension (30 working days) or Removal	Removal

TABLE OF PENALTIES

OFFENSE	FIRST PENALTY	SECOND PENALTY	THIRD PENALTY
42. Failure of supervisor to notify employees, in writing, of background check required by Section IV.K.	Suspension (up to 10 working days)	Suspension (up to 30 working days)	Removal

XIV. EMPLOYEE GRIEVANCE

A. Policy

An employee who feels aggrieved as a result of an application of disciplinary action such as discharge, suspension, loss of pay or benefits, or an employee or an applicant for an employment position who alleges a violation of the Navajo Preference in Employment Act has a right to utilize the procedures provided in this Section.

B. Eligibility

All employees are eligible to file a grievance concerning the application of disciplinary action such as discharge, suspension, loss of pay or benefits, and any employee or applicant for an employment position are eligible to file a grievance alleging a violation of the Navajo Preference in Employment Act. At-will employees are not eligible.

C. Grievance Process

1. <u>Step One:</u>

   An employee or an applicant for an employment position must file a written grievance with the supervisor who initiated the action within twenty working days of the disciplinary action or alleged violation of the Navajo Preference in Employment Act, with a copy to the Department of Personnel Management. The supervisor must attempt to resolve the problem with the employee or applicant within ten working days after receipt of the grievance.

2. <u>Step Two:</u>

   If the supervisor fails to address the grievance or if the employee or applicant disagrees with the decision, the employee or applicant must file a written appeal with the Human Resources Director within ten working days of the completion of Step One above. The appeal shall include:

   a. the name and position of the Aggrieved Party,
   b. the name and position of the supervisor initiating the action,
   c. a clear and concise statement of the underlying facts, including the dates and alleged events or conditions which form the basis of the appeal, and the specific harm allegedly sustained by the Aggrieved Party as a result of the violation,
   d. the relief sought by the Aggrieved Party.

3. Step Three:

a. Within ten working days of receipt of the appeal, the Department of Personnel Management will convene an Administrative Meeting with the employee or applicant and the supervisor to attempt settlement. If the Department of Personnel Management does not convene the meeting or if the parties do not settle the grievance within the ten working days, then the grievance proceeds to Step Four.

4. Step Four:

If the employee or applicant disagrees with the outcome of the Administrative Meeting, or if no Administrative Meeting was convened, the employee or applicant must file a written grievance appeal with the Department of Personnel Management within fifteen working days of the conclusion of Step Three for immediate transmittal to the Hearing Officer. A filing fee of $25.00 must accompany this appeal. At this point, and not earlier, both parties may be represented by legal counsel.

5. Step Five:

A Navajo Nation Hearing Officer will conduct the grievance hearing. The hearing will be held within 30 working days of the date of filing, or as soon thereafter as agreeable to the parties. The Hearing Officer will render a written decision within twenty working days of the hearing.

6. The decision of the Hearing Officer is the final administrative decision.

D. Refund of Filing Fee

If the grievance is withdrawn or resolved prior to commencement of the grievance hearing, the filing fee shall be refunded.

E. Grounds for Dismissal of Grievance

Abandonment of a case or noncompliance with required grievance deadlines by the Aggrieved Party will be grounds for dismissal of the grievance. The Department of Personnel Management will make such determination and inform all parties. Dismissal of a grievance may be appealed to the Hearing Officer under Step Four.

F. Withdrawal of Grievance

At any point in the grievance process, an employee may withdraw the grievance.

G. Status of Position Pending Grievance Outcome

Any changes regarding a position affected by a grievance will be placed on hold by the Department of Personnel Management until such time the grievance is resolved or a final decision is rendered.

H. Status of Employee Pending Grievance Outcome

1. Notwithstanding the foregoing subsection G, disciplinary actions shall be effective immediately upon notice to the employee.

2. Notwithstanding an employee's involvement in a current grievance, subsequent violation(s) of the personnel policies by the employee may result in separate disciplinary action(s).

3. An employee that has filed a grievance shall be allowed reasonable use of available annual leave hours for the purpose of participating in the grievance process.

I. Grievance Hearing Officer

A Hearing Officer of the Office of Hearings and Appeals shall hear grievances under this Section. The Office of Hearings and Appeals' rules for personnel grievances shall govern the grievance hearing. The Hearing Officer shall have the authority to uphold or reverse the disciplinary action of the supervisor, award back pay to the grievant, and when required, order that the employee's record be expunged, and may provide any other relief available to the grievant under the Navajo Preference in Employment Act. The Hearing Officer may also consider the appropriateness of the penalty imposed and if circumstances warrant, reduce the penalty. However, in no case shall the Hearing Officer increase the penalty imposed by the supervisor.

XV. TERMINATION OF EMPLOYMENT

A. Responsibility

The Human Resources Director is responsible for establishing detailed procedures to address issues arising under this section.

B. Resignation

1. An employee may voluntarily terminate employment with the Navajo Nation by submitting a letter of resignation.

2. The employee resigning shall give at least ten working days notice, unless the supervisor consents to the employee leaving sooner.

3. An employee who submits a written resignation may, with the supervisor's approval, withdraw the resignation and be restored to the vacated position provided the written request for withdrawal submitted to the supervisor prior to the effective date of the resignation.

C. Discharge of Employees

1. A supervisor shall notify the employee, in writing, of the discharge and the specific reasons for the discharge. The notice shall include all requirements of Section XIII.F Contents of Disciplinary Notice.

2. These policies do not apply to At-will employees.

D. Subsequent Disqualification

If an employee, who was qualified for his/her position, subsequently becomes disqualified for the position due to a loss of license, certification, or reclassification of the position due to a reorganization of the program or material changes in duties, or for any other reason, the employee shall be given a reasonable period to re-qualify. The employee shall also be given notice that if he/she does not re-qualify during the re-qualification period, the employee will be terminated.

E. Layoff

An employee who is to be laid off shall be given 15-calendar days written notice. Notice of layoff may be less than the 15-calendar day requirement if stoppage of work results from circumstances beyond the control of the Navajo Nation, e.g. program funding is terminated, positions are not refunded, or funds are not available to continue program operations. In all cases, however, the employee must be given as much notice as possible.

Subject to applicable law, a regular status employee who is laid off shall be entitled to re-employment preference. These policies do not apply to temporary employees or At-will employees.

1. Organizational restructuring.

2. A supervisor may lay off a regular status employee whenever it becomes necessary due to lack of work or funds or elimination of position.

3. Whenever layoffs are necessary, the supervisor shall immediately notify the Human Resources Director of the proposed layoffs and provide the Human Resources Director with a list of affected employees.

4. No regular status employee shall be laid off while there are temporary, seasonal, or new employees employed in the same, equal, or lower level positions for which the regular status employee is qualified.

5. In determining the order of layoff of regular status employees, the supervisor shall consider such factors as seniority, performance appraisals, qualifications, work record, and conduct and whether employee is a veteran as set forth in Section III.C. The supervisor shall, if possible, retain the veteran.

6. If an employee's position is eliminated while he/she is on family medical leave, the employee shall be placed on layoff status immediately.

7. <u>Physical Change and Incapacity</u>

   An employee may be laid off when, due to physical ailment or injury, the employee is no longer capable of performing the duties of the position. Before lay off,

   a. the employee must have seen a medical practitioner who has found the employee to be partially or totally disabled, or to be otherwise mentally or physically limited in work performance.
   b. The supervisor must determine that even with reasonable accommodation(s) for the employee's physical condition, the employee is incapable of performing the duties required of the position.
   c. If a supervisor believes that an employee is physically or mentally incapacitated but will not seek medical attention, the supervisor may require the employee to see a medical practitioner for an evaluation at the expense of the Navajo Nation.
   d. An employee laid off under this section must receive written notice explaining the reason for layoff and is entitled to

consideration for a transfer and re-employment preference consistent with the policies herein.

F. Termination of Volunteers or Temporary Employees

1. A supervisor may terminate a volunteer or temporary employee at any time. The termination must be in writing and include an explanation for the termination, consistent with Navajo law.

2. A volunteer who is terminated is not entitled to re-employment, layoff, or grievance rights.

3. A temporary employee who is terminated is not entitled to re-employment or layoff rights.

4. A volunteer or temporary employee may resign without prior notice. The resignation must be in writing.

G. Termination of New Employees

1. A supervisor may terminate a new employee for just cause at any time during the introductory period. The termination must be in writing and include an explanation for the termination, consistent with Navajo law.

2. A new employee who is terminated is not entitled to re-employment or layoff rights.

3. A new employee may resign without prior notice. The resignation must be in writing.

H. Retirement

An employee who leaves Navajo Nation employment in accordance with the Navajo Nation Retirement Plan is considered to have retired.

I. Death

1. Unless leave without pay was previously approved, an employee shall be compensated through the date of death.

2. The effective date of the separation shall be the date of death.

3. The supervisor shall take reasonable steps to assure that arrangements are made to provide payment to the employee's

estate of any salary, overtime, or accrued annual leave payments due.

J. Final Pay

1. Upon receipt of all required documents, a final paycheck shall be issued to the terminated employee. The final check will include payment for hours worked, accrued annual leave, and any overtime as of the termination date.

2. All or part of the final pay check and/or annual leave payment may be withheld to satisfy any indebtedness to the Navajo Nation.

XVI. CONDUCT OF EMPLOYEES

A. Business Ethics and Conduct

Employees are expected to comply with all applicable laws and policies of the Navajo Nation with respect to their conduct. In general, the use of good judgment will guide employees with respect to lines of acceptable conduct. If a situation arises where it is difficult to determine the proper course of action, the matter should be discussed with the appropriate supervisor and, if necessary, with the Office of Ethics and Rules for advice and consultation.

Each employee of the Navajo Nation shall, among other things:

1. Uphold, with integrity, the trust and confidence placed in the employee pursuant to his/her employment.

2. Comply with and respond to the directions and instructions of the supervisor.

3. Show courtesy, respect, cooperativeness, diligence and tact in dealings with supervisors, fellow workers, elected officials and the general public at all times.

4. Provide full, efficient, and industrious service to promote the goals and objectives of the Nation's programs.

5. Maintain confidential information acquired in the performance of his/her duties and refrain from disclosing any portion thereof, except in the manner and to the extent authorized.

6. Refrain from using his/her official position to influence transactions involving purchases, contracts, leases, or other business dealings which advance personal interests or those of his/her friends or

relatives. The existence of any actual or potential conflict of interest must be disclosed to the appropriate supervisor so that safeguards can be established to protect all parties.

B. Limitations on Employee Activities

1. While employed, an employee's private life is his/her own, however, an employee's activities cannot disrupt the work or the workplace. Each is expected to comply with all applicable laws.

2. If an employee is indebted directly to the Navajo Nation, he/she will be required to make payment (including payroll deductions) subject to the specific terms of the indebtedness and/or the Navajo Business and Procurement Act.

3. Employees shall be held accountable for loss of Navajo Nation funds or property for which they are responsible where the loss is due to negligence or carelessness. Employees with custodial responsibilities for Navajo Nation property will safeguard assigned property.

4. Solicitation or receipt of gifts, favors, and/or gratuities is prohibited when such gifts constitute a conflict of interest or is in violation of the Ethics in Government Law.

5. Correspondence, papers, drawings, sketches, documentation, computer programs, instructions, procedures, forms and all such items produced by an employee in the course of his/her work are considered property of the Navajo Nation. Unauthorized removal, reproduction, and/or disclosure are strictly prohibited.

6. While employees may be authorized from time to time to speak on behalf of the Nation, no employee may declare, as policy, any statement that is contrary to the policies of the Navajo Nation.

7. Tribal vehicles are for official use only and employees are required to use them within the scope of their employment. Any accident involving a tribal vehicle must be reported by the employee involved in the incident as required by the Motor Vehicle Operator's Handbook.

8. Use of the Internet in any way which would violate policies and/or procedures established by the Division of General Services or other appropriate authority is prohibited.

C. Employees Pursuing Public Office

1. An employee pursuing any public office may, upon approval of the Program Manager, be granted a leave of absence not to exceed 60 calendar days.

2. Annual leave will be used until exhausted, then leave without pay will be used. However, funding source restrictions may require that an employee take only leave without pay.

3. Employees are prohibited from campaigning during work hours. Supervisors shall monitor and enforce this policy.

4. Employees elected to the Navajo Nation Council or the office of the President or Vice President of the Navajo Nation must resign from Navajo Nation employment before taking the oath of office.

D. Employees Appointed or Elected to Public Office

1. Employees who are elected to any public office other than those listed in C.4 above may be allowed to retain Navajo Nation employment. If the public office is a full-time position or involves a salary, the employee must obtain permission from his/her immediate supervisor and the Human Resources Director to retain Navajo Nation employment. The request must be submitted in accordance with the policy on Second or Outside Employment.

2. If the employee's duties as a public servant interfere with his/her work performance or responsibilities, or otherwise create a conflict of interest in the workplace, the supervisor may initiate appropriate disciplinary action and/or refer the matter to the Ethics and Rules Office. Public officials shall not perform public servant responsibilities while on their regular tour of duty as a Navajo Nation employee.

   a. Employees retaining tribal employment are expected to abide by all applicable policies including, but not limited to, these personnel policies, travel policies, and standards of conduct.
   b. Cases referred to the Office of Ethics and Rules - Decisions issued by the Ethics and Rules Committee must be complied with by all parties.

3. An employee who has been appointed or elected to serve on a board, commission, or committee which pays a stipend, or who has been elected to a public office, shall be required to take annual leave to attend to appointed or elected duties. The Program Manager will grant these leave requests whenever possible. If the

employee has exhausted annual leave, then leave without pay will be used.

E. Drugs and Alcohol in the Workplace

1. The use of intoxicants during working hours or the lunch period is prohibited.

2. An employee unable to perform job duties as a result of alcohol or illegal drug intoxication will be excused from the worksite and charged leave without pay. In addition, the employee is subject to disciplinary action consistent with the Table of Penalties, offense #40.

3. Employees are prohibited from selling, purchasing, transferring, possessing, or using alcohol in the workplace.

4. Employees are prohibited from unlawfully manufacturing, selling, purchasing, transferring, possessing, or using controlled substances in the workplace.

5. Any employee violating the above policies will be disciplined, up to and including termination for the first offense.

6. Any employee convicted of violating a criminal drug or alcohol statute in the workplace must inform the supervisor and the Department of Personnel Management of such conviction, including pleas of guilty or no contest, within five working days of the conviction. Failure to do so will result in disciplinary action, up to and including termination for the first offense.

7. An employee convicted of violating a criminal drug or alcohol statute in the workplace may participate in a rehabilitation or treatment program. If such a program is made as a condition of employment, the employee must satisfactorily participate in and complete the program.

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

9. Employees may be subject to drug and alcohol testing consistent with Navajo law.

F. Sexual Harassment

1. It is the policy of the Navajo Nation to protect all employees, male or female, against unwelcome and unsolicited behavior of a sexual nature. Such behavior is unacceptable in the workplace and other work-related settings such as business trips and business-related social events.

2. Definition

Sexual harassment is defined as unwelcome or unwanted conduct of a sexual nature, whether verbal or physical, when:

a. submission to or rejection of this conduct by an individual is used as a factor in decisions affecting hiring, evaluation, promotion, or other aspects of employment;
b. this conduct substantially interferes with an individual's employment, performance on the job, or creates an intimidating, hostile, or offensive working environment.
c. Examples of sexual harassment may include, but are not limited to:

1) nonverbal actions; leering; gesturing of a sexual nature;
2) unwanted sexual advances;
3) demands for sexual favors in exchange for favorable treatment or continued employment;
4) repeated sexual jokes, flirtations, advances, or propositions;
5) verbal abuse of a sexual nature;
6) verbal commentary about an individual’s body;
7) touching, rubbing, pinching, whistling, assaulting, suggestive insulting, coerced sexual acts, or rape;
8) environmental harassment; display in the workplace of sexually suggestive objects or pictures.

3. Reporting a Complaint

Sexual harassment complaints should be addressed to the immediate supervisor or at the departmental level. Reports of sexual harassment must be in writing.

4. Retaliation

The Navajo Nation will not in any way retaliate against an individual or witness who makes a report of sexual harassment, nor will it permit any employee to do so. A person found to have retaliated

against another individual for reporting sexual harassment shall be subject to disciplinary action provided for sexual harassment offenders.

5. Investigation

Any allegation of sexual harassment brought to the attention of the Navajo Nation will be investigated in a manner that protects the privacy of all persons involved and such privacy will be maintained throughout the investigatory process to the extent practical and appropriate.

a. Individuals found to have engaged in misconduct constituting sexual harassment will be disciplined, up to and including discharge from employment.
b. If an investigation results in a finding that an employee has falsely accused another of sexual harassment knowingly or in a malicious manner, the complainant will be subject to appropriate sanctions, including the possibility of termination.

6. Further information concerning this policy is contained in the procedures governing complaints on sexual harassment.

G. Workplace Violence Prevention

The policy of the Navajo Nation is to prevent workplace violence and to maintain a safe work environment.

1. Conduct that threatens, intimidates or coerces another employee, a client, or a member of the public, will not be tolerated.

2. Employees are to refrain from fighting or other conduct that may be dangerous to others.

3. Unauthorized firearms and weapons are prohibited on the premises of any Navajo Nation property or site where Navajo Nation business is conducted.

4. All threats of, or actual violence should be reported to the immediate supervisor. All suspicious individuals or activities should also be reported as soon as possible.

5. The Division Director shall document and be responsible for ensuring the prompt and thorough investigation of reports concerning threats of, or actual violence and of suspicious individuals or activities.

6. In order to maintain workplace safety and to maintain the integrity of the investigation, employees may be placed on leave consistent with the provisions of Section X.B.3, Administrative Leave.

7. Anyone determined to be responsible for threats of, or actual violence or other conduct that is a violation of these guidelines will be subject to disciplinary action up to and including termination of employment.

8. Employees are encouraged to bring their disputes or differences with other employees to the attention of their supervisors before the situation escalates into potential violence.

H. Unlawful Acts

1. Any unlawful act committed by an employee of the Navajo Nation while on or off the job or Navajo Nation premises, can affect an employee's status.

2. Notwithstanding any criminal prosecution initiated in a court of law, an employee may be disciplined, up to and including removal, if the conduct constitutes a violation of the Personnel Policies Manual.

3. An employee convicted of a misdemeanor involving moral turpitude or a felony cannot be reemployed by the Navajo Nation for a period of at least three years. The number of years may be determined by other standards if the employee's position is funded pursuant to a grant or contract.

XVII. OFFICE AND WORKSTATION REGULATIONS

A. It is the policy of the Navajo Nation to establish and maintain a safe working environment for all employees. Therefore, an employee's workstation or any other site where Navajo Nation business is conducted is declared to be a drug, alcohol, tobacco, and smoke-free environment.

B. Safety

Supervisors and employees have a responsibility to maintain a safe work environment by preventing conditions leading to injuries, accidents, and losses. This includes but is not limited to the posting of emergency evacuation plans at designated areas.

C. Workstation

1. Supervisors are responsible for establishing standards for:

a. food and drinks at workstations;
b. radios, tape players, and other devices; and
c. appearance of the work area.

2. Use of Nation property or services, including but not limited to, telephones, computers, vehicles, machinery, credit cards, desks, office equipment, and supplies, are for official use only.

   a. Supervisors have the right to inspect and/or access Nation property;
   b. at the supervisor's discretion, personal items stored by the employee in Nation property are subject to removal;
   c. the Nation is not responsible or accountable for loss or theft of personal property of employees.

D. Dress Code and Personal Appearance

Dress, grooming, and personal hygiene contribute to the morale of all employees and affect the business image of the Navajo Nation to clients and the public. Therefore, during business hours or when representing the Nation, employees' dress, grooming and personal hygiene should be appropriate for the work they do.

1. Employees who have regular contact with the public are expected to dress in a manner that is normally acceptable in similar organizations and present a clean, neat, business-like appearance.

2. Dress and personal appearance of employees who do not regularly meet the public may be governed by the requirements of safety or comfort, but should still be as neat and business-like as working conditions permit.

3. Certain employees may be required to meet special dress, grooming, and/or hygiene standards depending on their job. In these situations, Supervisors are responsible for establishing and issuing standards for appropriate dress and appearance.

4. Supervisors may also designate a "casual day" for employees to dress in a more casual fashion than is normally required. On such occasions, employees are still expected to present a neat appearance.

5. Ripped, disheveled clothing, unkempt appearance, or other inappropriate clothing or appearance is not permitted. An employee may be asked to leave the workplace until properly dressed or groomed. Under such circumstances, the employee will not be compensated for the time away from work.

E. Child Care

1. Employees are responsible for making appropriate child care arrangements. Except when specifically permitted, employees are not to bring children to work or have their children loitering on Navajo Nation premises after school hours.

2. The Navajo Nation recognizes the importance of allowing mothers who choose to breast-feed their children the opportunity to continue after returning to work. The employee and her supervisor shall make the necessary arrangements.

XVIII. PERSONNEL RECORDS

The Department of Personnel Management shall establish and maintain official personnel records for employees of the Navajo Nation.

A. Location of Records

Employee records shall be located at the Department of Personnel Management or other locations for storage purposes under restricted access. Employee files shall not be removed from the Department of Personnel Management.

B. Contents

Employee records shall include information such as, employment applications; background check final determination notice; letters of reference; pay and benefits; training and education; performance evaluations; corrective or termination actions; and other necessary information as specified by the Department of Personnel Management.

C. Updating

Employees are encouraged to keep their personnel files current by submitting to the Department of Personnel Management updated information on their experience, education, and training.

D. Confidentiality

Information in an employee's personnel file is considered confidential. However, the information may be disclosed in compliance with a lawful investigation or subpoena. Access to and release of information contained in the personnel records shall be limited to only those persons who have a legally recognized need to know.

E. Examination of File by Employee

Employees may examine their personnel file upon written request to the Department of Personnel Management. The employee must provide evidence of his/her identity. Examination of records shall be in the presence of the Human Resources Director or authorized representative.

F. Release of Information

1. Upon submittal of a notarized Authorization for Release of Information, the employee information from that employee's personnel record may be released to a third party.

2. Certain information contained in the employee file is considered public information and therefore may be released without employee authorization. These include, but are not limited to, title, department, and work site.

G. Record Retention

Upon termination, an employee's personnel record shall be considered inactive, but will be maintained for a period of three years beyond date of termination. After three years, the record will be archived at the Department of Personnel Management.

XIX. VETERANS PREFERENCE

A. Policy

The policy of the Navajo Nation (Nation) is to comply with all applicable laws that govern the employment relationship between the Nation and its employees. Consistent with the provisions of applicable laws and policies, the Nation gives preference in employment to Veterans of the United States (U.S.) Armed Forces. Recognizing their sacrifice, Navajo Veterans' Preference recognizes the economic loss suffered by citizens who have served their country in uniform, restores Veterans to a favorable competitive position for Nation employment and acknowledges the larger obligation owed to disabled Veterans.

Eligible Veterans receive preference for initial employment and a higher retention standing in the event of layoffs. However, the Veterans' preference does not guarantee the Veteran a job, nor does it give Veterans preference in internal personnel actions such as promotion, transfer, reassignment and reinstatement.

B. A Veteran discharged from the U.S. Armed Forces or the National Guard or Reserve under honorable conditions following more than 180 calendar days of active duty shall be given preference in employment.

1. Preference in employment on the initial hire and retention for those Veterans who were honorably discharged or the spouses of Veterans shall be provided in the following order:

   a. A Veteran who has an existing compensable service-connected disability who is able to work.
   b. A Veteran of any war or peacetime who has served on active duty for 181 calendar days or more or who has served 180 calendar days or more, other than for training, since January 31, 1955 and who was discharged or separated under honorable conditions from the U.S. Armed Forces.
   c. A Veteran who sustained a service-connected disability prior to completing the 180 calendar days of active duty.
   d. The spouse of a Veteran who cannot qualify for employment because of a total and permanent disability or the spouse of a Veteran killed in the line of duty or missing in action, captured by a hostile force(s); forcibly detained or interned by a foreign government/power .
   e. The un-remarried surviving spouse of a Veteran who died of a service-connected disability.

2. An individual applying for Veterans Preference must complete an Application for Veterans' Employment Preference when submitting a Navajo Nation Application for Employment along with a copy of DD Form 214 or DD Form 215 to receive preference.

C. Recruitment

1. Advertising of Vacant Positions

   All vacancy announcements must be advertised for a minimum of 10 working days and include the phrase, "Veterans' Preference Applies" in the posting.

2. Application for Employment

   a. Each employment application will contain a general information document regarding Veterans' Preference and an Application for Veterans' Employment Preference.
   b. The Nation's employment application requires the applicant to indicate whether or not they are claiming Veterans' Preference. In those cases, the applicant will be asked to complete the Application for Veterans' Employment

Preference requiring them to identify which of the eligibility criteria applies to them.

c. The applicant will be required to furnish the Department of Personnel Management the documentation necessary to prove Veterans' Preference eligibility on or before the closing date of the position to be considered for preference. Proof of Veterans' Preference eligibility includes:

1) Veterans and spouses of disabled Veterans must furnish a copy of the DD Form 214 and/or 215, military discharge papers, and/or other verification from the Department of Defense (DOD) or Military Branches.

2) Spouses of disabled Veterans and un-remarried surviving spouse of a deceased Veteran must provide:

i. Certification from DOD or Military Branches that the Veteran is totally and permanently disabled or documentation certifying the service-connected death of the Veteran.

ii. Evidence of marriage to the Veteran.

iii. A statement that the spouse is still married to the Veteran or that the spouse is not re-married at the time of the application for employment.

d. Absence of required documentation invalidates the claim and the applicant is not eligible for Veterans' Preference.

D. Interview and Selection

1. The Department of Personnel Management will inform the hiring authority whether Veteran applicants are eligible for preference and whether they meet the minimum qualifications of the respective position. Applicants who meet the qualification requirements shall be referred by Department of Personnel Management in the following order or priority:

a. Enrolled Navajos with re-employment preference
b. Enrolled Navajo Veterans
c. Other enrolled Navajo applicants
d. Non-Navajo spouses of enrolled Navajos
e. Non-Navajos

2. The Department of Personnel Management does not use a numerically based qualification assessment process therefore preference is given at each step of the employment consideration

process to preference eligible applicants, provided such individual possesses the minimum qualifications necessary to perform the duties of the position. Qualified Veterans receive the same level of preference despite disability status.

3. All qualified eligible Veterans must be granted an interview by the hiring authority.

4. If the best qualified applicant, including a preference eligible Veteran are equally qualified, and no further evaluation occurs, the Veteran must be given selection preference. If there is a non-Veteran who is the best qualified for a position, the non-Veteran could be employed if an eligible Veteran does not possess the same level of qualifications. In such cases, reasons why and approval by the hiring authority is required prior to any offer of employment. Documentation of the hiring decision is paramount. In cases where the Veteran is not selected, the hiring authority must be able to justify why the Veteran was not selected.

5. It is the hiring authority's responsibility to ensure that a letter of non-selection is sent to all applicants, including Veterans, who were interviewed but not selected for a position. The letter of non-selection must be issued within three (3) working days from the time that the selected candidate signs the conditional offer of employment.

6. An applicant who feels that proper consideration of the Veterans' employment preference has not been provided to him/her shall have the right to appeal to the Department of Personnel Management within 10 working days from the date he/she receives a letter of non-selection.

XX. MILITARY LEAVE

A. Policy

It is the policy of the Nation to grant leave as necessary for members of Uniformed Service or Armed Forces in compliance with applicable laws.

1. Activation for Military Service

   a. A regular status employee who is an active member of the Army National Guard or Air National Guard, and/or member of the Army, Marine Corps, Navy, Air Force and Coast Guard Reserve, including retired and inactive reserve members shall be granted military leave upon request.

b. When a member is ordered to active duty status, he/she shall provide a copy of activation orders from their unit being activated when requesting military leave.

c. When a member is deactivated and discharged, he/she shall request for reemployment within time allowed in B. 1. below, submit a copy of orders, and shall return to the same position he/she was assigned to before going on leave with the same employer. At no time shall the Veteran be displaced in accordance with applicable laws regarding returning Veterans.

d. If his/her position was eliminated or transferred to another worksite location, he/she shall be offered an equivalent position within the same worksite location with the same seniority, status and pay as before he/she went on military leave.

2. State Activation and/or Ordered for Training for National Guard and Reserve, or as an intermittent disaster response appointment.

a. A regular status employee who is an active member of the Army National Guard or Air National Guard, and/or member of the Army, Marine Corps, Navy, Air Force and Coast Guard Reserve shall be granted military leave upon request.

b. When the Governor of the State activates a National Guard unit where member is serving for State emergency, an intermittent disaster response appointment, and/or unit commander orders unit or individual training, he/she shall provide a copy of orders when requesting military leave.

c. When the Reserve Branch or unit commander orders unit or individual training, he/she shall provide a copy of orders when requesting military leave.

d. Employees requesting military leave are entitled to 15 calendar days a year with pay. Military leave shall be 15 calendar days in duration. All other leave requests longer than 15 calendar days for basic training, technical/tactical advance training or other specialized training in their career field shall also be granted without pay, and 2.a., above shall apply.

e. An employee who is a member of the Reserves or National Guard serving an active military duty which extends into a second or succeeding leave year may accrue and use the 15 calendar days of military leave which accrue at the beginning of the second leave year and each succeeding leave year without return to civilian status.

f. Monthly weekend training (drill) shall not be considered military leave. When a member has to make up their drill during weekdays, he/she shall request for annual leave or other form of leave, not military leave.

g. There are two conditions under which an employee is entitled to an additional 22 workdays of military leave.

1) Reservist or National Guard members who perform military duty in support of civil authorities in the protection of life and property are eligible for an additional 22 workdays of military leave.
2) Employees who perform full-time military service as a result of a call or order to active duty in support of a contingency operation are entitled to 22 workdays of military leave.

B. Re-employment

1. Eligible National Guard and Reserve members shall be granted re-employment rights as follows:

a. Service of less than 31 calendar days. Employee must report to work on the next regularly scheduled work period after discharge from active military duty.
b. Service of more than 30 calendar days but less than 181 calendar days. Employee must make a request for re-employment no later than 14 calendar days after he/she is discharged from active military duty.
c. Service of more than 180 calendar days. Employee must submit a request for re-employment no later than 90 calendar days from date of discharge from active military duty or within one (1) year of service-related hospitalization.

2. Failure to meet deadlines for reporting back to work.

a. An employee who fails to report back to work or submit a written application for re-employment is subject to the Personnel Policies which state an employee shall be separated from employment if absent without excuse for three (3) calendar days, except in instances where returning to work is unreasonable or impossible due to no fault of the employee.
b. Upon release from active military duty, an employee with services as outlined in 1.b. and c. above must provide written notice to their immediate supervisor of their intention to return to work within five (5) working days.
c. The employee must inform their immediate supervisor of extended active military duty within five (5) calendar days of receiving military orders.

3. The employee must not have been released with a dishonorable or less than honorable discharge.

4. The cumulative length of absence from work for active military duty and retain eligibility for re-employment rights is five (5) years (with some exceptions).

5. The reporting deadline may be extended up to two (2) years when a Veteran or service member is hospitalized or is convalescing from injuries received during military service or training, or an existing disability aggravated during military service or training.

6. Returning Veterans and service members shall be re-employed in the same job as if they had remained continuously employed, with the same seniority, status and pay as before he/she went on military leave.

C. Necessary Documentation

1. When an employee has been absent for more than 31 calendar days, the employer has a right to request documentation to prove that:

   a. the employee's application is timely;
   b. the employee has not exceeded the service limitation; and
   c. that the employee did not leave the service for any disqualifying reason, such as dishonorable discharge.

2. The employer may not deny re-employment if the necessary documentation is not readily available. However, if re-employment documentation becomes available proving that the employee has not met the re-employment qualifications, the employee shall be terminated.

D. Job Protection and Reduction-In-Force

1. An employee performing active military duty is protected from reduction-in-force (RIF) and may not be discharged from employment, except for just cause. The length of protection is based on the length of military service.

   a. If the employee's military service was more than 180 calendar days, the employee cannot be discharged within one (1) year after the date of re-employment.

b. If the employee's service was between 30 and 180 calendar days, the employee cannot be discharged within 180 calendar days after the date of re-employment.

E. Employees Voluntarily Enlisting or Re-enlisting in Military Service

1. A regular status employee who voluntarily enlists or re-enlists in the U.S. Armed Forces shall resign from Nation employment.

2. Enlistment in the U.S. Armed Forces is considered full-time employment. Military leave does not apply and shall not be granted.

F. Military Funeral Honors Detail

1. A Veteran who is discharged under honorable conditions will be granted administrative leave with pay to perform Military Funeral Honors Detail during the workweek.

2. An employee participating in the Military Funeral Honors Detail must submit an administrative leave request form to the Navajo Nation Department of Veterans Affairs Central Administration and/or Agency Offices for verification of his/her participation. The employee must also acquire written approval from his/her immediate supervisor.

3. The employee shall only be compensated by the program/department for which he/she is employed. He/she shall not accept or be authorized any other compensation.

XXI. DEFINITIONS

ABUSE OF OFFICE OR POSITION: to make excessive or improper use of the authority associated with one's employment.

ACKNOWLEDGMENT OF UNDERSTANDING: a written notarized statement signed by an applicant, employee or volunteer that he/she is to notify his/her immediate supervisor and the Office of Background Investigations, in writing, within 72 hours of any arrest, criminal indictment, or convictions.

ACTIVE DUTY: active military service in the U.S. Armed Forces performed on a full-time basis with military pay and allowances.

ADJUDICATION: an examination by the Office of Background Investigations of a person's conduct over time, resulting in a favorable or unfavorable determination of their employment suitability or for their retention in employment.

ADMINISTRATIVE EMPLOYEE: any employee whose primary duties consist of non-manual work concerning management policies or business operations and who exercises discretion and independent judgment in assisting managerial employees (as defined herein), and in fulfilling special tasks assigned.

APPLICANT: a person who has submitted an application for a position within the Navajo Nation (Executive or Legislative Branches).

AT-WILL: a supervisor can discharge an employee under this employment status for any reason at all or no reason at all, with or without notice; and the employee can leave (resign) at any time for any or no reason at all, with or without notice.

BACKGROUND CHECK: a report of an individual's criminal history that is obtained from legitimate criminal history repositories.

BREAK IN SERVICE: an interruption in continuous employment.

CLASS SPECIFICATION: a written description of a class which includes a class title, a general statement of the level of work, a statement of the required knowledge, skills and abilities, some examples of work, and the qualification requirements for the class.

CLASSIFICATION: the process of grouping positions which are similar in duties and responsibilities, such that the same descriptive title may be used to designate each position and common requirements as to education, experience, knowledge, ability and other qualifications exist for all positions.

CONFLICT OF INTEREST: a clash between the private interest of an employee and the interest of the Navajo Nation; a conflict between the public obligation and the private interests of an employee.

CONTROLLED SUBSTANCE: any drug, the availability of which, is designated by law as restricted and includes but is not limited to narcotics, stimulants, depressants, hallucinogens, methamphetamine and marijuana.

DD FORM 214: a military discharge document issued by the Department of Defense.

DD FORM 215: a military discharge document issued by the Department of Defense utilized to correct errors on the DD Form 214 discovered after the original has been delivered and/or distributed.

DAYS: calendar days unless otherwise stated.

DEMOTION: a change in the assignment of an employee from a position in one class to a position in another class having a lower pay grade.

DISCHARGE: the involuntary removal of an employee from employment.

DISCIPLINARY ACTION: action taken by a supervisor in response to unsatisfactory conduct or performance by an employee.

DISHONORABLE DISCHARGE: dishonorable or bad conduct discharge from active duty in the U.S. Armed Forces.

DIVISION DIRECTOR: in addition to Division Directors, includes heads of Executive and Legislative Offices.

EGREGIOUS: deplorable, outrageous, flagrant, outstandingly bad, and blatant.

EMPLOYEE: an individual employed by the Navajo Nation (Executive or Legislative Branches).

EMPLOYER: for the purpose of this manual, employer is the Executive or Legislative Branch of the Navajo Nation Government.

EXEMPT EMPLOYEE: an employee in a managerial, professional, or administrative position. Employees assigned to exempt positions are not eligible for overtime compensation.

FELONY: any criminal offense designated as a felony under federal or state law.

FOR CAUSE: reasons which law and public policy recognize as sufficient for removal, not merely a cause which the supervisor in the exercise of discretion may deem sufficient.

FRAUD: any intentional act designed to deceive and cause the Nation financial loss.

HIRING AUTHORITY: for purposes of these policies the hiring authority includes anyone who has authority to hire, terminate, discipline or otherwise initiate personnel action.

HONORABLE CONDITIONS: an honorable discharge from active duty in the U.S. Armed Forces.

INSUBORDINATION: willful or intentional refusal to obey any reasonable instruction or directive which a supervisor is entitled to give and have obeyed or which is set forth in established policies; to ridicule or undermine one's supervisor; condoning, encouraging, or engaging in conduct not within the chain of command.

KEY POSITION: a professional or highly technical position that requires specialized training, experience, licensure or certification.

LAYOFF: the involuntary separation from employment for nondisciplinary reasons, including, but not limited to, lack of funds or work, abolishment of position, or reorganization within program, department, or division.

LEAVE: authorized absence, with or without pay, granted to an employee to take time off from work.

MALICIOUS: wrongful and done intentionally without just cause or excuse.

MANAGERIAL EMPLOYEE: any employee whose primary duties consist of managing a division or recognized department, program or office; who directs the work of two or more other employees; who has the authority to hire or fire other employees or whose recommendations in such matters are given particular weight; and who otherwise exercises discretionary powers.

MINIMUM QUALIFICATIONS: a specification of the experience, training, education and/or licensure or certification and the minimum knowledge, skills and abilities that provides appropriate job related qualifications necessary to perform the duties.

MISCONDUCT: improper or unlawful behavior by an employee in regards to his/her position.

MISDEMEANOR: any criminal offense designated as a misdemeanor under federal, state, Navajo Nation or other tribal law.

MORAL TURPITUDE: gravely violating accepted moral standards of the community.

NATIONAL GUARD: a civilian reserve component of the U.S. Armed Forces comprised of guardsmen who serve during overseas peacekeeping missions, time of war and during local emergencies.

NAVAJO NATION: for the purposes of this manual, Navajo Nation includes all programs, departments, and divisions within the Executive and Legislative Branches of the Navajo Nation Government.

NAVAJO NATION CODE: reference number for Political At-will employees:

Attorney General 2 N.N.C. §1962 (B)
Chief Prosecutor 2 N.N.C. §1973 (B) and (D)
Executive Director of the Navajo Nation Washington Office 2 N.N.C. §1152 (C)
The Public Defender Commission 2 N.N.C. §1994 (C) and 2 N.N.C. §1995 (C)

NEGLIGENT: the failure or neglect of any reasonable precaution, care, action; careless; failing to give proper attention.

NON-EXEMPT EMPLOYEE: an employee in a non-supervisory or office staff position. Employees assigned to non-exempt positions are eligible for overtime compensation.

OVERTIME: any time worked which exceeds the regularly scheduled tour of duty.

PEACETIME: a time when the U.S. is not at war which includes the years of: 1946 - 1950; 1955 - 1964; and May 7, 1975 – August 1, 1990.

PENALTY: a punishment imposed for violation of personnel policies or procedures.

PERFORMANCE MANAGEMENT PLAN: the formal system by which an employee is evaluated.

PROFESSIONAL EMPLOYEE: any employee whose primary duties consist of work requiring knowledge of a specific field including, but not limited to, law, teaching, medicine, architecture, engineering and other fields of science; work that is original and artistic in character, the result of which depends on the talent of the employee and whose work requires the exercise of discretion and judgment in its performance.

PROGRAM MANAGER: for purposes of these policies, a Program Manager includes anyone who has the authority to hire, terminate, discipline, or otherwise initiate personnel action. It is also intended to include all supervisors at higher levels, i.e. Department Managers, division directors.

PROGRAM PARTICIPANT: an individual who receives services from Navajo Nation programs, i.e. Navajo Department of Workforce Development, Office of Youth Development, Program for Self Reliance, etc.

PROMOTION: a change in assignment of an employee from a position in one class to a position in another class having a higher pay grade.

REPRIMAND: written notice to an employee by the supervisor that a deficiency exists in the employee's work performance or conduct and improvement is needed.

RESERVIST: a reserve of the U.S. Armed Forces, including retired and inactive members.

SERVICE-CONNECTED DISABILITY: an injury or disease that was incurred or aggravated during active military service.

SOME EXCEPTIONS: with reference to Section XXI. B.4. (1) Service beyond 5 years that is required to complete an initial period of obligated service; (2) service from which a person, through no fault of their own, is unable to obtain a release within the five-year period; (3) required training for National Guard members and reservists and additional training certified by the Secretary of Defense and/or Governor of the State as necessary for professional development; (4) service under an order to report for or stay on active duty during a domestic emergency or situations related to national security; (5) service under an order to report for or stay on active duty (other than training) because of a war or national emergency declared by Congress or the U.S. President; (6) service under an order to active duty (other than training) by volunteers supporting operational missions for which selected reservists have been ordered to involuntary active duty; (7) service under an order to active duty by volunteers supporting a critical mission or requirement of the armed services; (8) federal service as a member of the National Guard called into action by the U.S. President to suppress an insurrection, repel an invasion, or carry out the laws of the United States.

SUITABILITY ASSESSMENT: an evaluation conducted by the Office of Background Investigations to determine whether a conviction of or plea(s) of guilty or no contest to offense(s) on an individual's criminal history, or other information may upon the individual's fitness to perform the duties of a sensitive position; and thereby provide for the safety of Navajo Nation employees, volunteers, interns and program participants and to protect the Nation's funds, property and other assets.

SURVIVING SPOUSE: the spouse of a deceased Veteran.

SUSPENSION: the temporary removal of an employee from service without pay, for disciplinary reasons and for a specified period of time.

THEFT: any of the following acts done with intent: 1. Obtaining or exerting unauthorized control over property; 2. Obtaining by deception control over property; 3. Obtaining by threat control over property; 4. Obtaining control over stolen property knowing the property to have been stolen by another.

UNIFORMED SERVICE OR ARMED FORCES: the U.S. Armed Forces (the Army, Navy, Air Force, Marine Corps, Coast Guard and Reserve units for each such branch); the Army National Guard and the Air National Guard when

engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Services; and any other category of persons designated by the U. S. President in time of war or national emergency.

VETERAN: an individual discharged from the U.S. Armed Forces under honorable conditions.

VOLUNTEER: an individual who performs hours of service for civic, charitable, or humanitarian reasons without promise, expectation, or receipt of compensation for services rendered except reimbursement for expenses, reasonable benefits, and nominal fees or a combination thereof.

VULGAR LANGUAGE: language that is obscene, indecent, or offensive to a reasonable person.

WEAPON: an instrument of offensive or defensive combat, or anything used, or designed to be used, in injuring a person, including but not limited to, firearms and knives.

WILLFUL: with intent; knowingly; deliberately; intending the result which actually comes to pass; not accidentally or involuntarily.

WORKING PAID SUSPENSION: the period of time an employee is on suspension with pay for disciplinary reasons and the employee continues to carry out his/her regular duties at the workplace.

WORKPLACE: includes Navajo Nation buildings, property, parking areas, and any other location where Navajo Nation business is conducted.