

**RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

- WHEREAS,** the Indian Child Protection and Violence Prevention Act, Chapter 34 of Public Law 101-630, mandates that each Indian Tribe or Tribal Organization that receives funds through the Indian Self-Determination and Education Assistance Act or the Tribally Controlled Schools Act of 1988 shall conduct a background investigation of the character of each individual who is employed or is being considered for employment in any position which involves regular contact with or control over children; and
- WHEREAS,** the Division of Human Resources Director has met with representatives of the Legal Department, Early Childhood Development Department, Tribal Police Department, Education Department, Social Service Department, and the Chaghache Day Care Center to discuss the requirements for a background investigation; and
- WHEREAS,** a copy of the proposed background investigation policies and procedures has been submitted to the above named departments for review and comments; and
- WHEREAS,** the Inter Agency Coordinating Committee and the Legal Department have completed a final review of the proposed background investigation policies; and
- WHEREAS,** procedures and revisions suggested by the Tribe's General Counsel have been incorporated into the proposed policies and procedures; and
- WHEREAS,** the Tribal Council has reviewed the proposed policies and concludes that it is in the best interest for the protection of the children of the White Mountain Apache Tribe to immediately implement the background investigation policies and procedures.
- BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby approves the attached Policies and Procedures for Background Investigations.
- BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that the Policies and Procedures for Background Investigation shall be implemented immediately.


BE IT FURTHER RESOLVED by the Tribal Council that the Division of Human Resources Director is directed to provide all Tribal Departments and Enterprises with a copy of the Background Investigation Policies and Procedures.

The foregoing resolution was on October 20, 1993, duly adopted by a vote of five for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (a) of the Amended Constitution and Bylaws of the Tribe, ratified by the Tribe June 27, 1958, and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

RECEIVED

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FORT APACHE INDIAN AGENCY
MOUNTAIN VIEW, ARIZONA



Chairman of the Tribal Council



Secretary of the Tribal Council

**PERSONNEL POLICIES AND PROCEDURES
BACKGROUND INVESTIGATIONS**

I. General Policy

- A. The White Mountain Apache Tribe, Division of Human Resources, Personnel Department, in coordination with the Tribal Police Department, will conduct a thorough and comprehensive background investigation on all employees, whether paid or not, who may be hired or who may provide services to the Tribe in potentially sensitive positions as defined herein. Such employees will include all employees of the Tribe, consultants, subcontractors, independent contractors, volunteers, students, foster parents, and persons otherwise affiliated with the Tribe.

- B. Employees of the White Mountain Apache Tribe who are required or allowed to provide services directly to minors will be subject to a thorough and comprehensive background investigation as a condition of employment.

- C. Employees of the White Mountain Apache Tribe who are under the age of 18 years and who are required or allowed to provide services directly to other minors will be subject to a background investigation as a condition of employment.

- D. The White Mountain Apache Tribe may prohibit any Department from hiring any employee from providing services directly to minors until a thorough and comprehensive background investigation is completed and results (in writing) of the investigation are submitted to the Division of Human Resources, Personnel Department, for clearance.

However, if the background investigations cannot be conducted on a timely basis (within two (2) weeks after

notification to the Personnel Department of the intent to hire), routine reference checks of the previous employers and/or schools/training institutions will be conducted by the Personnel Department, and results of such reference checks will be issued to the Hiring Authority of the Department and to the Tribal Police Department in writing.

The Manager may use his discretion to hire the employee (based on the results of the reference checks), pending the outcome of the background investigations.

The Personnel Department shall be notified in writing of the Manager's decision and the reasoning behind the decision that was made. Otherwise, the Personnel Department will not process any Notice of Personnel Action forms that may be sent to the office.

Until a background investigation is formally completed and a written report is submitted to the Hiring Authority, the employee may work with children but only under direct visual supervision, to the extent practicable and feasible. In the event that it is not practicable and feasible for the employee to be under direct visual supervision, said employee shall not be left alone with less than five (5) minors for a period of time not to exceed fifteen (15) minutes. Furthermore, the employee shall not act or be directed to act in any capacity that would require physical contact with minors in such circumstances.

The Manager and the Employee will be notified at the time of hire, that the White Mountain Apache Tribe reserves the right to terminate an employee at anytime, if adverse

or questionable information regarding the employee's character is discovered as a result of the background investigation which may interfere with the employee's ability to effectively perform the job duties and responsibilities.

E. Employees of the Tribe who are required or allowed to provide services directly to minors will certify on forms provided by the White Mountain Apache Tribe and notarized whether they have had a civil judgement against them for any offense involving a minor, or if they are awaiting trial on, or have committed, or have ever been convicted of any of the following criminal offenses in this state, or similar offenses in another state or other Tribal jurisdictions:

1. sexual abuse of a minor
2. incest
3. first or second degree murder
4. kidnapping
5. arson
6. sexual assault
7. sexual exploitation of a minor
8. contributing to the delinquency of a minor
9. commercial sexual exploitation of a minor
10. felony offense involving distribution of marijuana or dangerous or narcotic drugs
11. burglary
12. robbery
13. a dangerous crime against children
14. child abuse
15. sexual conduct with a minor
16. molestation of a child
17. manslaughter
18. aggravated assault

- F. Employees who are hired by the Tribe for specific educationally related short-term projects may be exempt from background investigations, if the following conditions exist:
1. the employee has been continuously employed during the previous six (6) months with an accredited school system where background investigations which meet or exceed the standards required by the White Mountain Apache Tribe are required; and
 2. the employee is able to provide to the Tribe, written documentation from the school superintendent that background investigations were completed and that the employee has not encountered any problems pursuant to those situations listed in Section I.E. (1-18) while currently employed.
- G. Each Department will maintain a list of volunteers who work with children and who will work only under direct visual supervision. It shall be the responsibility of the Manager to ensure that adequate supervision is provided at all times. The listing of volunteers will be made available to the Division of Human Resources, Personnel Department, and will be updated each month, or as the volunteer list changes.
- H. Employees who are under 18 years of age and are placed in an in-school/after school work/study program or a summer youth employment program, and are placed with different organizations on the reservation, whether placed with Tribal, Bureau of Indian Affairs (BIA), Indian Health Services (IHS), State Government, or Public School offices or facilities, will only be placed in positions that require and are provided direct visual supervision by other adults. The Sponsoring Agency reserves the right to monitor each organization.

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- I. Employees who disclose the conviction of, commission of, or pending trial of an offense, as listed below, shall **NOT** be allowed to have regular contact with, or control over, or provide services to minors:
1. sexual abuse of a minor
 2. incest
 3. first or second degree murder
 4. sexual assault
 5. sexual exploitation of a minor
 6. commercial sexual exploitation of a minor
 7. a dangerous crime against children
 8. child abuse
 9. sexual conduct with a minor
 10. molestation of a child
 11. contributing to the delinquency of a minor
 12. felony offenses involving distribution of marijuana or dangerous or narcotic drugs
 13. arson
 14. burglary
 15. robbery
 16. kidnapping
 17. manslaughter
 18. aggravated assault
- J. **Confidentiality**: All and any reports generated from the background investigations shall remain confidential. The identity of any individual making a report shall not be disclosed without the expressed written consent of the individual who made the report, except in the following circumstances:
1. a court of competent jurisdiction subpoenas such information, or

2. an employee of the White Mountain Apache Tribe, a State, or Federal Government who needs to know the information in the performance of such employee's duties requests such information.

Upon consultation with the Tribal Legal Department, the Division of Human Resources Director may release the information requested.

- K. **Effect of Confirmed Criminal History:** If upon completion of the background investigation, it is confirmed that an employee has committed, or have been convicted of, or are awaiting trial of an offense, or has lost a civil case involving an offense against a minor, as listed in Section I.E. (1 - 18), the Manager shall immediately prohibit the employee from acting in any capacity requiring or allowing contact with minors. The White Mountain Apache Tribe reserves the right to terminate the employee.

II. **Investigative Procedures**

- A. The Division of Human Resources, Personnel Department will initiate all background investigations in coordination with the White Mountain Apache Tribal Police Department, after a request for such services is received from the Hiring Authority of any Department.
 1. **Background Checks:** Which ensures that none of the employees appointed to positions within the Tribal Government Structure have been found guilty of, or entered a plea of nolo contendere (no contest), or guilty to, any offenses under Federal, State, or Tribal law involving crimes of violence, sexual assault, molestation, exploitation, prostitution, or crimes against persons, as listed in Section I.E. (1-18).

Background checks will be conducted by the Tribal Police Department. Typed reports of the background checks shall be submitted to the Personnel Department as soon as the investigation is completed. The Investigative Officer shall sign and date all reports.

2. **Reference Checks:** Which ensures that the employees appointed to positions within the Tribal Government Structure have been employed and/or received education and training at organizations and schools listed on the applications/resumes submitted to the White Mountain Apache Tribe.

Reference checks will be conducted by the Division of Human Resources, Personnel Department at the same time the background checks are being conducted by the Police Department.

3. **Fingerprinting:** Where applicable, will be conducted by the Tribal Police Department who will also be responsible for distributing the appropriate information and materials to the Division of Human Resources, Personnel Department for processing. At no time should the fingerprints be given to the employee or applicant, or the Personnel Department. Fingerprints should remain at the Police Department.

- B. **Cost of Fingerprinting:** Shall be the responsibility of the Department requesting the information. The Tribal Police Department will bill all associated costs directly to the Department. A copy of the bill will be sent to the Division of Human Resources, Personnel Department.

- C. All interviews will be conducted according to established Personnel Procedures.
- D. A background check may be requested at anytime a candidate is being seriously considered for employment. However, all background checks must be requested no later than five (5) working days after the interviews have been held.

The Hiring Authority of the Department will, in writing, contact the Division of Human Resources, Personnel Department, to request background investigations of the top three (3) candidates, where applicable, who have interviewed for the positions that were announced.

Attached to the written request, the Hiring Authority will include the following forms:

- 1. Authorization to Release Information form, signed and dated by the applicant and witnessed by a Notary Public; and
 - 2. Completed Certification form with all questions answered and witnessed by a Notary Public.
- E. Within three (3) working days after receipt of the request and the appropriate forms, the Personnel MIS Administrator will review all information for completeness and accuracy, and immediately begin the necessary steps to initiate the background investigations.

A memorandum from the Personnel Department requesting background checks will be submitted to the Tribal Police Department with copies of the Authorization to Release

Information and Certification forms. At the same time the MIS Administrator shall begin the reference checks of former employers and training institutions. While the reference checks are being conducted, the Authorization for Release of Information form may be issued to former employers and/or training institutions upon request.

A written report will be submitted to the Hiring Authority within two (2) weeks after receipt of the initial request, unless circumstances beyond the Personnel Department's control prohibits completion of the tasks within the two (2) weeks time frame. A letter to the Hiring Authority will be issued to explain the circumstances.

- F. Once all background investigations have been completed, a typed report that have been signed and dated by the investigative officer will be submitted to the Division of Human Resources Director who will compile all the information and issue a synopsis of the reports to the Hiring Authority in writing within five (5) working days after receipt of the reports.

III. Recordkeeping

- A. All documentation pertaining to background investigations will be submitted in writing. Investigative procedures will not be initiated unless documented properly.
- B. All background investigations will be requested in writing from the Hiring Authority. The Hiring Authority will also be responsible for receiving appropriate

authorization to conduct background investigations pursuant to Section II.D (1 - 2).

- C. All reports pertaining to the background investigations will be submitted in writing (signed and dated) to the appropriate authorities.
- D. All investigative reports will be marked CONFIDENTIAL and filed in the applicant/personnel file at the Division of Human Resources, Personnel Department.
- E. Investigative reports will be retained for at least three (3) years after the first date of issuance.

IV. **Effective Date**

- A. These policies and procedures as written will be duly adopted immediately after approval from the White Mountain Apache Tribal Council.
- B. Each Department pursuant to funding agency requirements shall initiate background investigative procedures of current employees, as necessary.

V. **Subrogation**

- A. If any part of these regulations conflict with federal regulations when promulgated, then federal regulations shall prevail.

VI. **Definitions**

- A. **Background Investigations:** investigations conducted by the Tribal Police Department and the Personnel Department of the character of each individual who is employed, or

is being considered for employment by the Tribe in a position which involves regular contact with, or control over children.

- B. **Department:** means any program, enterprise, and/or department within the Tribal Government Structure.
- C. **Direct Visual Supervision:** means within sight and hearing of employees of the White Mountain Apache Tribe or agencies affiliated with the Tribe which involves regular contact with, or control over children.
- D. **Employee:** any persons who provide services to the Tribe, whether compensated or not. Means any employee, consultants, subcontractors, independent contractors, volunteers, students, foster parents, and persons otherwise affiliated with the Tribe. Normally, employees include all individuals who are fourteen (14) years and older.
- E. **Hiring Authority:** means a Manager or Supervisor who is responsible for the interviewing and hiring of employees of the Department.
- F. **Manager:** means any Director, Supervisor, Coordinator, etc. who is responsible for the day to day operations of a department, program, enterprise within the Tribal Government Structure or organizations and agencies affiliated with the State Government, Indian Health Services (IHS), Bureau of Indian Affairs (BIA), or Public Schools.
- G. **Minor:** means an individual who is under eighteen (18) years of age.

- H. **Sensitive Positions:** means any position which involves regular contact with, or control over children.

- I. **Supervision:** means in the physical company at all times of a supervisor or person in charge.

M E M O R A N D U M

TO :

FROM : Name/Title:
Department:

DATE :

SUBJECT: Requesting for Background Investigation

The _____ is interested in employing
(Department)

_____ as a _____
(Name of Applicant) (Position Title)

Therefore, I am requesting that a thorough and comprehensive background investigation be conducted on _____
(Name of Applicant)

as soon as possible.

Attached, please find the Authorization to Release Information form and the certification form, signed and dated by the applicant, allowing the White Mountain Apache Tribe to conduct any and all investigations on the above named applicant.

Signature

RESIDENCES (List All Residences From Age 18 to Present)

| Month and Year (From - To) | Street and Number | City | State |
|-------------------------------|-------------------|------|-------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

(If additional space is needed, use extra paper)

REFERENCES

List five character references who have known you five years or more.
DO NOT include relatives

| Name | Address | Years Known |
|------|---------|-------------|
| | | |
| | | |
| | | |
| | | |
| | | |

MILITARY INFORMATION

Have you ever served in any armed forces? Yes / No /

Branch _____ Date of entry - active service _____

Date of Separation _____ Type of Discharge _____

Rating at separation _____ Serial Number _____

While in the military service were you ever arrested for an offense which resulted in, a trial, or special or general court martial?

Yes / No / If yes, please explain: _____

Company Name:

Address:

Telephone Number:

AUTHORIZATION TO RELEASE INFORMATION

TO:

As an applicant for a position with _____,
I have been asked to furnish information for use in reviewing my
background and qualifications. In this connection, I hereby
authorize THE WHITE MOUNTAIN APACHE TRIBE to investigate my past
and present work, character, education, military and police records
to ascertain any and all information which may be pertinent to my
employment qualifications and character fitness for the position.
I agree to cooperate in such investigation and release from all
liability or responsibility all persons and corporations requesting
or supplying such information.

This authorization shall be valid for three (3) months from the
date of my signature below. You may retain this copy of my release
for your files. Thank you for your assistance.

SIGNATURE: _____ DATE: _____
(Type or print name below)

SS#: _____

WITNESS: _____ DATE: _____
(Notary Public)

C Have you ever received a pardon for any criminal offenses?

Yes No

If yes, when? _____ city, county, and state _____

D. Have you ever had a judgement against you in a civil action involving any offense against _____ a minor? Yes No If yes, please explain:

STATEMENT OF CERTIFICATION

I certify under penalty of law that the information provided anywhere in this form is true, correct, and complete to the best of my knowledge and belief. I also acknowledge that should investigation at any time disclose any misrepresentation or falsification, my application for employment may be rejected. My name may be removed from further consideration, and, I may be disqualified from future examinations and/or terminated from employment. I also authorize the White Mountain Apache Tribe, Division of Human Resources, Personnel Department, to make all necessary and appropriate investigations allowable by law to verify the information provided.

Signature of Applicant: _____ Date: _____

Subscribed and sworn to before me

the _____ day of _____ 199____

Signature

Notary Public in and for the County

of _____, State of _____.

OTHER INFORMATION

A. Have you ever committed, or been convicted, or are awaiting trial on any of the following criminal offenses in this state or in another state or jurisdiction.

- 1. / yes / no sexual abuse of a minor
- 2. / yes / no incest
- 3. / yes / no first or second degree murder
- 4. / yes / no kidnapping
- 5. / yes / no arson
- 6. / yes / no sexual assault
- 7. / yes / no sexual exploitation of a minor
- 8. / yes / no contributing to the delinquency of a minor
- 9. / yes / no commercial sexual exploitation of a minor
- 10. / yes / no felony offenses involving distribution of marijuana or dangerous narcotic drugs
- 11. / yes / no burglary
- 12. / yes / no robbery
- 13. / yes / no a dangerous crime against children
- 14. / yes / no child abuse
- 15. / yes / no sexual conduct with a minor
- 16. / yes / no molestation of a child
- 17. / yes / no manslaughter
- 18. / yes / no aggravated assault

B. Have you ever had a civil or criminal record expunged or sealed by a court order?

/ Yes / No

If yes, when? _____ city, county, and state _____