

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

(Adopting Personnel Policies and Procedures)

WHEREAS, the personnel policies and procedures of the Tribe were instituted in 1977, and amended in 1998; and

WHEREAS, the Tribal Council has established a Policies and Procedures Work Group to assist and advise on issues related to administration of the Tribe's government and enterprises; and

WHEREAS, the Work Group has prepared a Personnel Policies and Procedures Manual (the "Manual"); and

WHEREAS, the purpose of the Manual is to establish and maintain a centralized system of personnel administration that meets the social, economic and program needs of the Tribe, while meeting the standards for equal protection and due process available to employees of the Tribe under law; and

WHEREAS, the Manual provides all employees with a comprehensive description of the terms and conditions of employment, sets forth general duties and responsibilities, and forms the employment agreement between the Tribe and each of its employees; and

WHEREAS, the Tribal Council and department heads met in September, 2005, to review and consider the Manual; and

WHEREAS, the Manual has been revised by the Work Group to incorporate all of the changes recommended by the Tribal Council and department heads, as attached and incorporated by this reference; and

WHEREAS, the Manual is intended for all government employees and for enterprises, with the exception of the Fort Apache Timber Company and the Housing Authority, which have adopted their own personnel policies and procedures pursuant to their plan of operation; and

WHEREAS, after careful consideration, the Tribal Council finds that the Manual is in the best interests of the Tribe and the administration of the government.

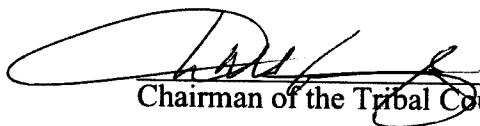
BE IT RESOLVED by the White Mountain Apache Tribal Council that the Personnel Policies and Procedures Manual, as attached and incorporated by this reference, is hereby approved and adopted.

BE IT FURTHER RESOLVED by the Tribal Council that the Manual shall serve as a guide for the Tribe's enterprises, who may supplement the Manual's terms and conditions as appropriate.

The foregoing resolution was on NOVEMBER 30, 2005 duly adopted by a vote of SIX for, ZERO against, and ONE by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority

Resolution No. 11-2005-344

vested in it by Article IV, Section 1 (a), (b), (i), (s), (t) and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).


Chairman of the Tribal Council


Secretary of the Tribal Council



WHITE MOUNTAIN APACHE TRIBE

**PERSONNEL POLICIES AND
PROCEDURES MANUAL**

Effective November 30, 2005

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SECTION I. INTRODUCTION

A. Introduction

1. **Authority and Administration.** Authority to manage the government of the White Mountain Apache Tribe was expressly provided in Article IV, Sections 1(b), (i) and (s) of the *Constitution of the White Mountain Apache Tribe*, as ratified by the Tribe on September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984). Pursuant to Resolution 11-2005-344, the White Mountain Apache Tribal Council (the "Tribal Council") has provided the Chairman of the Tribe with the overall responsibility for implementing these personnel policies and procedures, while the Human Resources Office has been delegated day-to-day administration thereof. The Chairman, through the Attorney General, and Human Resources Office may adopt non-substantive changes, exemptions or waivers of the Personnel Policy Manual. Any substantive changes shall require adoption by Resolution of the Tribal Council.
2. **Purpose.** The purpose of this Personnel Policies Manual (the "Manual") is to establish and maintain a centralized system of personnel administration that meets the social, economic and program needs of the White Mountain Apache Tribe (the "Tribe"), while meeting the standards for equal protection and due process available to employees of the Tribe under law. The Manual provides all employees with a comprehensive description of the terms and conditions of employment, and sets forth general duties and responsibilities. Accordingly, this Manual forms the employment agreement between the Tribe and each of its employees.
3. **Agreement.** This Manual contains the terms and conditions of employment with the Tribe. By accepting employment, an employee agrees to these terms and conditions.
4. **Goal.** The goal of this document is to establish uniform practices that will institutionalize the principles of fairness and merit as the basis for all personnel actions of the Tribe. These Personnel Policies have been established to set standards insuring that in any personnel action the terms, conditions and privileges of employment, will be impartially and universally applied.
5. **Personnel Principles.** The guiding personnel principles of the Tribe are:
 - (a) Recruitment, selection, and advancement of employees on the basis of their relative knowledge, skills and abilities;
 - (b) Equitable compensation;
 - (c) Training employees as needed to assure the highest quality and standards of performance;
 - (d) Retention of employees on the basis of their performance;
 - (e) Separation of employees whose poor performance cannot be corrected or standards of conduct are unacceptable;

- (f) Fair treatment of all applicants and employees in every aspect of Personnel Administration;
 - (g) Use of Indian preference in hiring and promotion;
 - (h) Protection of employees against coercion for partisan political purposes; and
 - (i) Establish methods and appropriate financial support for building capacity for WMAT members' leadership of departments, programs and services through training, scholarship, apprenticeships, and the formulation of job descriptions.
6. **Coverage.** All employees of the Tribe are covered by, and subject to, these Personnel Policies and Procedures. A Tribal employee is considered to be anyone employed by the Tribe regardless of funding source. The Chairman, Vice-Chairman and members of the Tribal Council, as elected officials, are considered to be serving in policy exempt positions.
7. **Changes, exemptions and waivers.** Additions, deletions, exemptions and waivers to these Personnel Policies may be requested by any employee or member of the White Mountain Apache Tribe, and/or other person(s) having a legitimate interest. Such request must be made in writing to the Chairman, Attorney General and the applicable Department Head, and must include the recommended change, with rationale for the change, in order to be considered. If the change has merit, the Chairman, through the Attorney General and Human Resources Office, may adopt non-substantive changes, exemptions or waivers of the Personnel Policy Manual. Any substantive changes shall require adoption by Resolution of the Tribal Council.
8. **Prior policies and/or resolutions rescinded.** Upon the formal adoption date of Resolution 11-2005-344, this Manual shall rescind and replace any and all previously adopted policies and resolutions addressing the personnel requirements contained herein or affecting employees of the Tribe. All employees must sign for receipt of the Manual and are responsible for knowing and complying with the contents thereof.

SECTION II. THE ADMINISTRATION OF THESE PERSONNEL POLICIES

A. Purpose

The purpose of these Personnel Policies is to establish and maintain a centralized system of personnel administration that meets the social, economic and program needs of the White Mountain Apache Tribe, while meeting the standards for equal protection and due process available to the Tribe's employees under law. The Manual provides all employees with a comprehensive description of the terms and conditions of employment, and sets forth general duties and responsibilities. Accordingly, this Manual forms the employment agreement between the Tribe and each of its employees.

B. The Human Resources Director

1. The Human Resources Director, reporting through the Tribal Treasurer, shall advise the Chairman on matters of personnel policies, procedures and problems.
2. The powers and duties of the Human Resources Director shall be to:
 - a. Review and make recommendations for changes to these Personnel Policies and amendments thereto (NOTE: Changes in these Personnel Policies shall require approval of the Attorney General, Tribal Treasurer and the Chairman of the White Mountain Apache Tribe);
 - b. Advise Department Heads and other officials on matters of interpretation of Personnel Policies;
 - c. Manage the Human Resources Office with the standard of high public regard for the White Mountain Apache Tribe as an employer and for the employees that are in the service of the Tribe;
 - d. Conduct investigations as directed concerning personnel management in the departments or programs of the Tribe;
 - e. Conduct the grievance procedure in accordance with **SECTION X. EMPLOYEE FORMAL GRIEVANCE AND APPEALS PROCEDURES**, herein;
 - f. Give reports and recommendations to the Chairman, Tribal Treasurer, Attorney General and/or Legislative Council as appropriate;
 - g. Perform other duties as may be expressly set forth herein and in any procedures adopted pursuant thereto;
 - h. Approve qualification standards recommended for all professional and non-professional positions and designation as exempt or non-exempt;
 - i. Authorize all personnel actions;

- j. Certify the appointment, promotion, demotion, and discipline of employees, and other personnel actions;
- k. Administer these Personnel Policies including the employee grievance and appeals procedures; give final interpretation and application of these policies;
- l. Bring to the attention of the Chairman, the Controller, the Budget and Finance Committee and/or the Tribal Council, as appropriate, any unnecessary positions or under-staffing that may exist; and
- m. Perform any other lawful action which is considered necessary or desirable to carry out the purpose of the personnel system and the provisions of this Personnel Policies Manual.

C. The Human Resources Office

- 1. The Human Resources Office, under the direction of the Human Resources Director shall be responsible for directing and coordinating the personnel activities of the Tribe, including but not limited to, the following:
 - a. Prepare and recommend position classification(s) and pay scales. Direct the continuous administration of these plans.
 - b. Direct the recruitment, testing, selection, and hiring of employees.
 - c. Prepare, recommend, and enforce Personnel Policies for personnel administration.
 - d. Establish and maintain personnel systems, forms, procedures, and methods of record-keeping.
 - e. Maintain a roster of all persons in the Tribe's service.
 - f. Direct overall employee orientation, training, job counseling, and career development in conjunction with Department Heads.
 - g. Assist Department Heads in determining the number and class(es) of required position(s) to execute programs.
 - h. Ensure that personnel actions taken by Department Heads have been made in accordance with this Personnel Policies Manual. The Human Resources Office will withhold certification for the processing of payroll documents if the actions contained therein violate the provisions of the Personnel Policies Manual.
 - i. Administer the White Mountain Apache Tribe's Health and Life Insurance programs and workers' compensation plan and other fringe benefits.

- j. Conduct in-service training sessions for the Tribal departments based on specific needs and/or customized to meet department requirements.

D. Department Heads

1. Department Heads may establish such policies, procedures, regulations or rules as may be necessary for the efficient and orderly administration of their department(s). Such rules as they affect personnel policy are subject to the written approval of the Human Resources Director, the Attorney General, the Chairman, or the Tribal Council, as appropriate, and must be filed in the Human Resources Office before they become effective. Department Heads will distribute these rules and make them available for reference by affected employees.
2. Department Heads shall have the authority and responsibility, subject to the provisions of the Personnel Policies Manual, to:
 - a. Hire, promote, retain, discipline and/or separate employees;
 - b. Appoint an Executive Director, a position reporting directly to the Department Head;
 - c. Recommend employees to the Human Resources Office along with the recruitment and/or testing procedures to be used in hiring;
 - d. Recommend to the Human Resources Office the establishment, abolishment and/or reclassification of positions within their departments;
 - e. Approve the use of annual leave, sick leave, and/or other applicable leave;
 - f. Approve overtime and compensatory time;
 - g. Recommend qualification standards for positions;
 - h. Evaluate the performance of employees;
 - i. Direct employee orientation, training, counseling, and career development;
 - j. Assign and change duties of employees within their job description and scope of work;
 - k. Reorganize and identify new staffing needs for the department within established procedures; and
 - l. Perform other duties and responsibilities as listed in this manual, their job descriptions, and/or assigned.

SECTION III. APPLICATION AND SELECTION

A. General

1. Appointment and promotion of employees to permanent positions shall be based on merit and fitness as required under the applicable job description. Selection methods will be based solely on job-related knowledge, skills, abilities, experience, education, and when appropriate, previously demonstrated performance, aptitude, and adaptability. Selection factors are special requirements needed to qualify for a particular job, as specified under the job description, and the results of an interview.
2. Regardless of the number of competitors, selection methods shall be deemed competitive when: (a) valid qualification requirements determined by the Human Resources Director are used; (b) a reasonable opportunity is afforded qualified persons to apply; and (c) all persons compete against common standards.
3. Proper regard will be given for applicants' privacy and constitutional rights as citizens, except that Indian preference shall be exercised in favor of enrolled Tribal Members and then in favor of other enrolled members of federally recognized Tribes. For the purpose of this policy, Tribal Member is defined as someone who is an enrolled member of the White Mountain Apache Tribe. Preference in hiring will be given after a candidate first meets the minimum qualifications for a job. If a Tribal Member is available and fully qualified for the job, he or she shall be hired.

B. Classification Plan

1. The Classification Plan is a schematic list of position classes, supported by written specifications setting forth the duties and responsibilities of each class and the qualifications necessary for the hiring or appointment to that class.
2. Position classification is a system of grouping positions, which are basically similar (involve the same type and level of work) into the same class so that the same pay provisions, preparation requirements, and selection procedures may be applied. The Classification Plan does not evaluate employees; rather, it evaluates and describes the duties of a specific position.
3. The Classification Plan is the backbone of the personnel system and the common basis for other personnel activities. The following are the key features of the Classification Plan:
 - a. Serves as a basis for sound wage/salary administration by making it possible to equate classes of positions with a common wage/salary range, e.g. equal pay for equal work;
 - b. Establishes qualification standards for recruiting and selection;
 - c. Allows for the testing of applicants for employment on a class (group) basis rather than on individual basis and thereby provides a basis for similar treatment of applicants in the selection process;

- d. Outlines the developmental possibilities for employees as part of a career system and allows employees to prepare for those promotional opportunities and establishes common lines of promotion;
- e. Simplifies budget, payroll, planning and management activities, facilitating personnel management controls across departmental lines of authority and assists in organizational analysis;
- f. Provides basic information for the development of work performance standards; and
- g. Reassures the public that there is a job-related system in use that can serve as a sound basis for personnel administration.

C. Methodology of Classification

1. The classification process shall include a systematic study (job analysis) through the use of position (job) descriptions, observations(s), interview(s), or other techniques as needed, to gather necessary information. Classification decisions shall be made on the basis of the kind and level of the duties and responsibilities of the position with appropriate consideration for the qualifications required, relation to other jobs or positions, and other pertinent job-related allocation factors.
2. The Human Resources Office will arrange classes similar in kind of work, but differing in level of difficulty and responsibility, into a job series and differentiate between levels by use of numerical designations such as I, II, etc.

D. Class and Class Specification

1. A class shall be composed of one or more positions that are so similar in the basic character of duties and responsibilities that the same pay scale, title, and qualification requirements can be applied and the positions can fairly and equitably be treated under like conditions for all personnel purposes. The same basic qualification requirements shall be applied to all positions in a class, regardless of the department in which the position is located.
2. The class specification shall state the characteristic duties, responsibilities, and qualification requirements that distinguish a given class from other classes. The specification shall be descriptive but not restrictive. The class specification shall describe the most typical types of work which may be allocated to a given class, but shall not be construed to restrict the assignment of other duties related to the class.
3. The class specification shall contained a class code, class title, a brief description of the nature of work, typical duties and minimum qualification requirements, including knowledge, skill, abilities, training, education, experience, and any license or registration legally required for that class.

E. Administration of Classifications

1. The classification plan shall be established and maintained through recommendations from the Human Resources Director. The Chairman, or designee shall exercise final authority in the administration of the plan.
2. When a new position is created, the department shall send to the Human Resources Office a request for classification of the position, with a description of the applicable duties and responsibilities. The Human Resources Office shall allocate the position to the proper classification after analysis and evaluation of duties and responsibilities.
3. When the assignment of an employee has changed substantially as to kind and/or level of work, the Department Head may initiate a request for change in classification. This request must be submitted in writing to the Human Resources Office, accompanied by a draft position description listing the new duties as recommended by the Department Head. The Human Resources Director within six (6) weeks will issue a decision concerning the correct classification of the position after reviewing the recommendation with the Tribal Treasurer and/or, as appropriate, the Controller, Chairman, Budget and Finance Committee. If a change in the classification is warranted, the Department Head must obtain budget approval to implement the change if additional salary expense is required. If the Budget and Finance Committee denies the request for reclassification and the Department Head disagrees with the decision, an appeal to the Chairman may be made. If denied, no similar request may be submitted within six (6) months.

F. Job Announcements

1. The job announcement shall specify the title and salary range of the class, duty site and/or department, the nature of the work to be performed, and the experience and training required. Also contained in the announcement are the time, place and manner of making application, and other requirements or pertinent information required to apply.
2. An announcement shall be distributed for every job opportunity in order to inform interested and qualified persons of the vacancy. Announcement shall be posted in the Human Resources Office and in other places where eligible persons might reasonably be expected to be as determined by the Human Resources Director. Departments and divisions shall post all job announcements issued by the Human Resources Office.
3. Job announcements shall be posted for a minimum of ten (10) working days. The announcement period may be extended to attract a sufficient number of qualified applicants for the position to be filled. The closing date for any open continuous examination may be set at any time, but notice of this action shall be posted at least five (5) working days prior to the effective date of the action. Except for announcements posted as "open until filled," recruitment may be closed without notice anytime after the minimum posting time of ten (10) working days. Interviews will be scheduled within ten (10) working days after the closing date of the announcement.

G. The Application Process

1. **Applications.** Application forms and job openings shall be available to all interested persons upon request, by telephone, via Internet at <http://www.wmat.us>, in person or in writing, to the Human Resources Office and such other places as may be deemed appropriate for effective recruitment. Applications will be accepted for consideration only when they are submitted in response to a specific job announcement. Any unsigned or incomplete application will not be considered. Anyone who applies for a position must do so in accordance with these Personnel Policies.
2. **Pre-employment Requirements.** Most of the positions with the White Mountain Apache Tribe are service delivery and therefore deemed sensitive in nature. Employees working in these sensitive areas may be required by the Department Head, with concurrence of the Human Resources Director, to sign a Confidentiality Agreement. All candidates shall be subject to drug and alcohol testing. Candidates for sensitive positions may be required to be photographed, finger printed and submit to a background investigation and/or pre-employment drug test. Refusal of a candidate to sign a confidentiality agreement, be photographed, or be fingerprinted or drug-tested will result in disqualification.

H. Selection of Applicants

1. As stated in **SECTION III. A.** of this manual, applicants will be selected based on merit and qualifications for any given position. These methods will be based on job-related knowledge, skills, abilities, experience, education and when appropriate, previously demonstrated performance, aptitude and adaptability. Selection factors are special requirements needed to qualify for a particular job position as described in the job description.
2. **Terminated Employee Tracking System.** The Human Resources Office and all enterprises of the Tribe shall develop a data base of all employees have been terminated by the Tribe or its enterprises for testing positive for illegal drugs or alcohol, and sexual harassment. The database shall be used solely for the purpose of determining whether or not an applicant may be selected for an available job opportunity.
3. Any applicant for a job or position may be rejected if the applicant:
 - a. is found to lack the qualifications prescribed to proceed in the selection process;
 - b. is physically incapable of performing effectively the duties of the position despite reasonable accommodations that may be made for individuals similarly situated to the applicant;
 - c. has a record of prior unsatisfactory employment;
 - d. has been convicted of a crime which would bar and/or impair the applicant from the effective performance of the duties of the position applied for;

- e. has used or attempted to use political pressure, bribery, cheating on examinations, or other inappropriate means to secure an advantage in examination or appointment;
- f. has practiced or attempted to practice deception or fraud in the applicant and selection process;
- g. has otherwise violated provisions of the Personnel Policies Manual;
- h. has been in his or her current position less than six (6) months (this provision may be waived if it is in the best interest of the Tribe);
- i. has knowingly provided materially false information on the application or to the Human Resources Office;
- j. if any nepotism is involved in the recommendation, selection or promotion of the candidate, applicant or employee;
- k. fails to disclose or otherwise omits information requested on the application for the job or position;
- l. is listed on the Tribe's or its enterprise's Human Resources database of employees who have been terminated by the Tribe or its enterprises for testing positive for illegal drugs or alcohol or sexual harassment;
- m. is incarcerated with work release privileges.

I. Examinations

Examinations may be given to candidates seeking employment with the Tribe or to those who are already employed by the Tribe, according to the requirements of the job or position. Examinations are held to benefit employees by testing and then recognizing their knowledge for particular job positions.

J. Examination Types and Eligibility

1. **Open Competitive Examinations.** Examinations are designated to establish eligible lists (such as a Clerical Roster). These examinations are open to applicants who meet the qualifications and other requirements set forth in job announcements and applicable laws.
2. **Promotional Examinations.** Promotional examinations shall be open only to permanent employees who meet the position qualifications and have been in their current position for six (6) months. The Human Resources Director may allow an exception to this six (6) month requirement if it can be demonstrated that it would be in the best interest of the Tribe for a job change to occur. Such examinations may be restricted to employees of a specific division or department when such action is in the best interest of the Tribe and will provide the best qualified applicants. Such determinations shall be made by the Human Resources Director and the Department Head.

3. **Examination Procedures.** Examinations may be required for competitive promotions. Examinations may be limited to permanent employees of the Tribe, or any organizational unit.
4. **Nature of Examination.** The Human Resources Director, in consultation with Department Head(s), will determine the content of all examinations. Examinations may be oral interviews, evaluation of training and experience, written tests, performance of job sample tests, physical agility tests, aptitude tests, background or reference checks or any combination of these or other methods.

K. Admission to Examinations

1. Applicants for a position shall be assigned to one (1) of the following three (3) categories:
 - a. **Not Qualified:** Applicant does not meet the minimum qualifications of the position.
 - b. **Qualified:** Applicant meets the minimum qualifications listed for the position.
 - c. **Best Qualified:** Applicant meets and exceeds the minimum qualifications for the position, however, this does not mean that a **Best Qualified** applicant will be automatically hired.
2. A **Qualified** applicant claiming and having proof of registration in a federally recognized Tribe shall automatically be placed on the **Best Qualified** list for an interview and full consideration.
3. Only **Best Qualified** applicants shall be notified of the date, time, and place of examination, except, when sufficient **Best Qualified** applicants are not available, then the examination may be open to **Qualified** applicants. No person shall be permitted to take any examination without authorization, which requires satisfactory evidence of acceptance, or conditional acceptance of that person's applicant by the Human Resources Office.
4. Applicants who are **Not Qualified** will not progress in the selection process.
5. Any applicant who, because of serious illness or for other good cause, is unable to appear for examination must notify the Human Resources Office of their inability to take the examination. The Human Resources Office may schedule the examination for a later date if the Human Resources Director determines that it is in the best interest of the Tribe to do so.

L. Management of Examinations

1. **Time and Place of Examinations.** The Human Resources Office shall proctor examinations and schedule the location and time.
2. **Anonymity of Applicants.** All reasonable precautions shall be taken to preserve the anonymity of applicants in the conduct and scoring of examinations. However, employees applying for transfer or promotional opportunities must advise their supervisor that they are competing for another position.

3. **Failure to Pass Examinations.** An applicant may be allowed to retake a test or portion of a with the approval of Human Resources Director unless this opportunity would provide applicant with an unfair advantage.
4. **Confidentiality of Examination Results.** A candidate's performance on an examination will be released to that candidate or a Department Head and in response to an authorized request (such as from an auditor or investigator.) Otherwise, anyone participating in the selection process will maintain the confidentiality of examination performance.
5. **Life of Applicant and Examination Papers.** Examination papers and applicants for any examinations shall be preserved for a period of six (6) months or for the duration of the eligibility list. All such documents and papers are the sole property of the Human Resources Office.

M. Employment Lists

Eligible lists shall be composed of employees seeking promotion, transfer, demotion or non-employees seeking original employment or rehire.

N. Re-employment Lists

Permanent employees with a satisfactory employment record who have been involuntarily separated from the Tribe's service because of lack of funds or work shall, if requested, have their names placed on appropriate re-employment lists in order of years of service with the Tribe. The eligibility of candidates on re-employment lists shall expire two (2) years from date of their separation from service. Re-employed employees shall receive credit for all prior working time, as long as the break in service is two (2) years or less and was performed within the government or enterprises of the White Mountain Apache Tribe.

O. Priority on Employment Lists

1. Candidates rated eligible in any promotional or open competitive examination shall have their names placed on the list for the class for which they were examined in order of their final earned ratings.
2. The life of employment lists shall generally be one (1) year from the date of issuance unless specified otherwise by the Human Resources Director.

P. Amendments to Employment Lists

1. **New Names.** New names may be added to an eligibility list from time to time.
2. **Removal of Names from a List.** The Human Resources Office may remove or withhold from certification the name of an eligible candidate from a list for any of the following reasons:
 - a. Appointment of the candidate to another vacancy.

- b. Declination of an appointment.
 - c. Failure to respond within fourteen (14) calendar days to any written inquiry from Human Resources Office regarding the candidate's availability for appointment.
 - d. Non-selection for a permanent appointment to the same class on three successive occasions;
 - e. Failure by the successful candidate to report for duty at the agreed upon date and time.
 - f. Expiration of the term of eligibility on the list.
 - g. In the case of promotional lists, upon transfer of the eligible employee to another department, or upon termination from service.
 - h. Dismissal for cause from any branch of the Tribe within the previous twelve (12) months.
 - i. Any cause for which an applicant for examination would be qualified.
3. **Request to Review Removal.** The Human Resources Office shall advise each candidate in writing of the removal of his or her name from the employment list. Such persons shall be allowed ten (10) calendar days from the date of receipt of the removal notice to request, in writing, a review of this removal. If the determination is made to restore the candidate's name to the eligibility list, any appointment that has been made previously shall not be affected.

Q. Availability of Eligible Candidates

It shall be the responsibility of the eligible candidates to notify the Human Resources Office in writing of any changes in the content of the application form or other change affecting their availability for employment. Whenever any eligible candidate submits a written statement restricting the conditions for employment, this statement will be reviewed and, if approved, the eligible candidate's name will be withheld from all certifications which do not meet the conditions. An eligible candidate may file a new written statement at any time within the duration of an employment list modifying conditions of availability for employment.

SECTION IV. EMPLOYEE REFERRAL, REASSIGNMENT, HIRE & APPOINTMENT**A. Department Heads as Hiring and Appointing Authorities**

The Department Head shall be the hiring and appointing authority for the employees of that respective department, subject to coordination with the Human Resources Office before any hire or appointment. This authority may be delegated in a standing order or on an intermittent basis to managers reporting to the Department Head. Committees or boards may be authorized by the Human Resources Director to recommend selections in accordance with these Personnel Policies. The Chairman of the Tribe acts as Department Head for those employees hired in the Executive Office and for Department Heads or other employees which are hired to report directly to the Chairman's position as reflected on the applicable organizational chart approved by the Tribal Council.

B. Filling of Vacancies

All vacancies in the career service shall be filled through original hire, re-employment, re-hire, promotion, demotion, transfer, or reassignment. When a vacancy is to be filled, the Department Head shall submit a Position Requisition to the Human Resources Office. The requisition form shall state the appropriate information to identify the type of transaction taking place. In addition, any necessary special requirements may be added to the job announcements as selection factors upon approval of the Human Resources Office.

C. Positions

1. **Creation of Positions.** Positions are created through the budget process and may be funded by either Tribal or grant funds. A number of terms are used to describe types of positions. An authorized position may be moved upon the recommendation of the Department Head and approval by the Human Resources Director or designee, with concurrence of the Chairman. Approval of the Chairman is required for transfer of positions between the Tribe's major departments. Unless specified otherwise, a position in the budget is a permanent position.
2. **Types of Positions.**
 - a. **Permanent Position.** An authorized job based upon an approved budget for the length of the budget cycle; filling a position requires the establishment of a list as described in these selection procedures.
 - b. **Temporary Position.** A job of short duration based upon an authorized budgeted position which can be filled by the Human Resources Office according to appropriate employment practices without the establishment of an eligibility list.
 - c. **Seasonal Position.** An authorized job based upon an approved budget which is for a term not to exceed four (4) months or 950 hours, usually corresponding to a season such as school year or summer months.

- d. **Policy Exempt Position.** A job, position or office that is exempt from the requirements of these Personnel Policies, because the position, job or office is filled by election.
- e. **Occasional Position.** An authorized job which is designed to supplement permanent employees on an as needed or emergency basis.

D. Referral of Candidates from Final Eligible Lists

1. **Number of Candidates Referred.** Upon receipt and processing of a Position Requisition, the applications of the three (3) to five (5) highest ranking eligible applicants on the appropriate list shall be referred to the Department Head. If no list exists, the Human Resources Office creates the list as described in SECTION III. APPLICATION AND SELECTION.
2. **Relatives of Tribal Employees.** A person in the immediate family of a Tribal employee will not be certified for a position in a department where another member of that person's immediate family would supervise the employee. The Human Resources Director may waive this provision if the only qualified applicant is in the immediate family of the supervisor.
3. **Filling More than One Position.** In cases where more than one position of the same title is to be filled in the same department, one (1) additional name and application for each vacancy may be referred. If the position has been open for a long period of time, the Department Head with concurrence of the Human Resources Director may proceed with the interviews with less than three (3) qualified applicants.
4. **Department Head Action.** The Department Head or designee shall make a hiring decision from the final list of eligible applicants provided by the Human Resources Office. If the Department Head is not satisfied with any of the candidates reviewed, he/she may request in writing that the position remain open until such time as additional candidates can be examined. In making the final selection, the Department Head shall be permitted with approval of the Human Resources Office to examine the applications, review the examination scores of the eligible candidates and contact references, before the hiring decision is made.
5. **Notice of Final Results.** The Human Resources Office will notify the successful applicant and extend the offer of employment. Also, the Human Resources Office will notify eligible candidates concerning their non-selection.
6. **Employees Not Eligible.** Employees will not be eligible for a different position until such time as they have been in their present position for a minimum of six (6) months. If it is in the best interest of the Tribe, the Human Resources Director may waive the restriction.

E. Appointments (Hires)

1. All personnel actions and appointments (hires) within the Tribe are conducted as authorized in these personnel policies and do not require specific approval of the White Mountain Apache Tribal

Council, except as may be required for confirmable appointments by Ordinance, Resolution or Constitution of the White Mountain Apache Tribe.

2. All hires listed below are Non-Confirmable Appointments:
 - a. **Probationary Hires.** Probationary hires shall be made following the certification from final employment lists created for budgeted positions and shall be for a period of six (6) months or one (1) year unless extended.
 - b. **Permanent Hires.** Received by employees who have completed probation as specified in these policies and provides career status as described in **SECTION V. CAREER STATUS OF PERMANENT EMPLOYEES.**
 3. Other hiring categories.
 - a. **Emergency.** In an emergency, to prevent undue delay or serious interference with the provision of necessary Tribal services, a Department Head may make an emergency hire for a period not to exceed ninety (90) calendar days. This does not require a vacant budgeted position. Such hires can be made without recourse to the formal examination and certification provisions of these procedures. Approval of the Chairman is required to make an emergency hire.
 - b. **Temporary.** When due to unforeseen circumstances, there is no appropriate list available or for the purpose of filling the position of an employee who is on extended leave of absence, a temporary hire may be authorized by the Human Resources Director. A person hired on a temporary basis should meet whenever possible all the standards for the class to which the hire is made. Temporary hires four (4) months, unless specific approval is given by the Human Resources Director to extend.
 - c. **Seasonal.** Hires to temporary positions for a specific period and usually not to exceed four (4) months duration, and no more than 950 hours a season.
 - d. **Occasional.** An employee who was hired to serve on a full-time or part-time basis intermittently throughout the year. The total hours of service for an occasional hire in a twelve (12) month period should not exceed 800 hours, and an occasional employee does not receive benefits. Employment status may be extended from year to year.
- F. **Employment "At-Will".** All hires in the Tribe except for permanent hires are "at-will", meaning that employment will last until either the employer or employee decides to terminate the employment relationships, with or without just cause. Employees serving as confirmable, non-confirmable, emergency, temporary, seasonal and occasional do not have grievance appeal rights which are extended to permanent employees of the Tribe, and therefore serve "at-will". Employees serving as probationary have grievance appeal rights only on the basis of alleged discrimination.

G. Pre-appointment Requirements

1. **Medical Examinations Prior to Appointment.** Any medical examinations required before appointment shall be conducted by the Indian Health Service or any other agency or physician designated or approved by the Tribe. Any candidate who has the examination conducted by a private physician must pay for such examination and furnish the results to the Human Resources Office. If a physician deems a candidate is medically unable to perform the duties of a position, the written report by the physician shall state the reasons for this inability and the reasons for rejection. Refusal to furnish examination results shall be grounds for rejection of the candidate.
2. **Background Check.** Candidates for some positions may be required by law to be photographed and fingerprinted for the purpose of a background investigation as required by statutes and designated by the Human Resources Office.

H. Reassignment

1. A Department Head, when restructuring or reorganizing with the Human Resources Director's prior approval, may reassign an employee that is subject to lay-off. This reassignment may be to a job at the same or lower salary range, resulting in a transfer or demotion for the employee. This is an intradepartmental reassignment.
2. Interdepartmental reassignments must be approved by both affected Department Heads and the Human Resources Director. If affected employees do not accept, they will be subject to layoff.
3. Employees can transfer up to fourteen (14) days of accumulated annual leave and all accumulated sick leave. The receiving department can allow transfer of any annual leave above fourteen (14) days and full cash payment will be made to the employee if all annual leave available is not transferred.

I. Other Employment Actions

1. **Transfer.** Permanent employees who otherwise qualify may apply and compete for transfer to announced vacancies in their own or other departments. However, employees seeking to transfer to a lower position and pay grade shall not keep or otherwise maintain their previous pay grade.
2. **Demotion.** Permanent employees who otherwise qualify may apply and compete for demotion to announced vacancies.
3. **Promotion.** Permanent employees who otherwise qualify may apply and compete for promotion to announced vacancies.

J. Rehire

1. Employees who previously worked for the Tribe and left their job or position in good standing may apply for announced vacancies. If selected through the competitive process, they will be

considered as original appointments unless they worked for any branch of the Tribe within the previous one (1) year. A rehired employee may have certain benefits available as described in these policies due to prior service.

2. Re-hire of laid-off employees. Employees who were laid-off or subject to a reduction in force within two (2) years of separation from their position shall be re-instated to those benefits, longevity, annual leave and sick leave they would have been eligible for had they not been laid-off.

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SECTION V. CAREER STATUS OF PERMANENT EMPLOYEES**A. Probation**

1. The probationary period is an integral part of the selection procedure allowing the hiring and/or appointing authority to serve and evaluate an employee's work performance in order to determine fitness for permanent status in the position. All original appointments, promotional appointments, promotional appointments, and re-employment appointments, are subject to a probationary period, with length of probation determined by classification. The probationary period for each category is:
 - a. **Non-professional** employees serve a six (6) month probationary period.
 - b. **Professional** employees serve a one (1) year probationary period.
2. The employee's immediate supervisor should review the performance of probationary employees mid-way through their probationary period and notify the Human Resources Director of any unsatisfactory performance. A copy of the evaluation will be placed in the personnel file.
3. The Department Head shall submit a written recommendation and completed evaluation at least one (1) week prior to the employee's eligibility to be placed in permanent status to the Human Resources office. The Department Head may:
 - a. Recommend, based on satisfactory performance by the employee, that the employee be given permanent status.
 - b. Recommend, based on unsatisfactory performance, but likelihood of improvement, or because of unusual circumstances, that the employee's probationary period be extended for a period not to exceed six (6) months, at which time the employee will be re-evaluated.
 - c. Recommend, based on unsatisfactory performance, that the employee be terminated.
 - d. For other than original hires, recommend, based on unsatisfactory performance, that the employee be demoted or returned to a former position in the same department, if available. The Human Resources Office will attempt to return the employee to their former position in another department provided the affected Department Head agrees to this action. The employee failing to pass probation may also apply for any announced vacancy for which he or she qualifies.
4. In all cases the employee shall be notified in writing of the reasons for the action taken. The Department Head at anytime during the employee's probationary period may recommend immediate termination based upon failure to perform or for misconduct since the employment relationship is at-will. Probationary employees may appeal the action only on the basis of discrimination.

B. Promotion

1. When promotion would provide the best qualified candidates, promotion of current employees may be used to fill vacant positions. The Human Resources Director in conjunction with the Department Head shall have the right to limit eligibility to a department or program, appropriate to the position to be filled.

C. Demotion

1. Employees who otherwise qualify may apply for and receive a demotion to announced vacancies.
2. A Department Head, with the written concurrence of the Human Resources Director, may demote or reduce in grade any permanent employee in the department for either the good of the department, due to lack of work, and/or as a disciplinary measure for cause.

D. Transfer

1. Employees who otherwise qualify may apply for and receive a transfer to announced vacancies.
2. An employee seeking transfer to a lower position and pay grade shall not keep the prior, higher pay grade associated with their prior position.

E. Separation (Termination). Before an employee is issued a final paycheck, authorization must be obtained from the department, and a separation clearance form should be completed. In addition, prior to separation, the employee shall be offered the opportunity to attend a separation interview by the Human Resources Office, in which the employee will be provided information regarding benefits or other rights available to the employee under these Personnel Policies. If an employee's termination date is not the last day of a pay period, the employee will receive only compensation for the time worked during the last pay period based on their hourly pay rate less any obligation due to the Tribe.

1. **Resignation.** Any employee who desires to resign from the Tribe's employment shall submit a resignation letter to the immediate supervisor or Department Head, giving two (2) weeks notice. If the employee is accepting another position within the Tribe, the customary two (2) week notice shall be given. The two (2) week notice may be waived if both Department Heads agree to do so.
 - a. The last day worked by an employee leaving the service shall be considered the date of separation and the employee shall be compensated for unused annual leave accrued and available to that date. Any monies owed to the Tribe by the employee will be deducted from their final paycheck. The employee's failure to provide two-week advance written notice to the Tribe shall have no effect on the ultimate financial reconciliation between the employee and the Tribe.
 - b. An employee who has submitted a resignation will be expected to perform his/her daily duties. The Department Head may terminate an employee prior to the resignation date if the employee is not performing assigned duties satisfactorily or is not reporting to work. Suc

termination will be placed in the personnel file and the employee will not be eligible for re-hire for a period of six (6) months.

2. **Reduction in Force or Layoff.** A Department Head may separate any employee because of a lack of funds or shortage of work, after at least fourteen (14) calendar days written notice to the affected employee. Such reduction in force (layoff) must have the concurrence of the Human Resources Director. No permanent employee shall be separated from any department while there are probationary, emergency or temporary employees serving in the same class of positions in that department. The conditions of layoff for permanent employees are:
 - a. **Order of Separation.** For retention purposes, separation shall be based first upon performance, ability, and then upon seniority or service in the class or department.
 - b. **Offer of Resignation.** A permanent employee in good standing shall not be terminated as a result of a reduction in force before the employee has been made a reasonable offer of reassignment within the department, if reassignment is available.
 - c. **Laid-off Employees on Re-employment Lists.** The names of permanent employees who have been laid-off shall be placed on the appropriate re-employment lists.
 - d. **Appointment or Hire of Laid-off Employees to Other Available Positions.** As a matter of policy, it is in the best interests of the Tribe to retain employees who have seniority, given their experience and dedication. Those employees with seniority facing a lay-off shall be given first priority for other available and similar positions within the Tribe or its enterprises, subject to their ability to fulfill the duties and responsibilities of those positions.
 - e. **Appointment or Hire of Laid-Off Employees to Positions of a Lower Class.** A Department Head may, with the approval of Human Resources Director, reassign an employee who is to be laid off to an existing vacancy in a lower class for which the employee is qualified and if the employee accepts the lower class position. If the employee chooses not to accept the lower position there shall be no negative consequences with regard to future Tribal employment.
3. **Furlough.** Some positions although permanent may be funded for nine (9) or ten (10) months of the year. Permanent employees occupying these positions will be furloughed for the period of time funds are not available. During the furlough, employee status is similar to leave without pay. However, all insurance for employees on furlough will continue, and this period of unemployment will not constitute a break in service. Pension contributions, leave accrual, and holiday pay will cease during the time spent in leave without pay status. If funds are not available for an employee to return to work, then reduction in force or layoff policies, or termination, will apply.
4. **Retirement**
 - a. **Eligibility.** Tribal employees participate in retirement programs which are defined in material available in the Human Resources Office. An employee may retire upon reaching

or attaining the specified age as provided in the retirement plan unless approval is given by the Chairman and Department Head to retain the employee on a year to year basis as long as the employee is capable of performing the duties of the job position. Such requests shall be initiated by the employee and submitted to the Human Resources Office no later than six (6) months prior to the designated retirement date.

- b. **Employment of Retired Employees.** Nothing in the previous paragraph shall be interpreted to prohibit the employment of retired employees on a regular full time, part-time, temporary, seasonal, or emergency basis when it is in the best interest of the Tribe.
5. **Termination for Medical Reason.** When it is determined, on the basis of a medical examination, that an employee is unable to perform satisfactorily because of a physical or mental impairment, which is likely to continue, employment may be terminated. However, every effort will be made to reassign the employee to a position within the employee's physical and mental capabilities. If it is not possible to reassign an employee, he/she if eligible will be placed on a medical disability.
6. **Dismissal or Termination for Cause.** A Department Head may, with adequate basis and the concurrence of the Human Resources Director, terminate for cause any permanent employee in the department by delivering a written statement of reasons to the employee concerned with a copy to the Human Resources Director. Upon receipt of such written statement of termination, the employee may appeal as provided in **SECTION X**, herein.
7. **Death.** An employee will be officially separated from the Tribe's service upon the day of employee's death. Any salary checks or other benefits due the employee will go to his or her beneficiary(ies) designated by the deceased employee on the life insurance policy unless a last will and testament exists that directs otherwise.

F. Other Types of Separation (Termination)

1. **End of Temporary Employment.** A Department Head may terminate a temporary, occasional or seasonal employee at anytime.
2. **Termination of Probationary Employee.** A Department Head may end a probationary employee's employment at anytime for failure to meet the requirements of the position, misconduct or for other reasons since the employment relationship is at-will.
3. **Job Abandonment.** See **SECTION VII. G. ABSENCE WITHOUT LEAVE.**

G. Employee Performance Evaluations

1. **Purpose.** Every Tribal employee shall be evaluated annually by their immediate supervisor. This is to measure the general efficiency of the employee, areas needing improvement, determine strengths and the employee's overall job performance.

2. **The Evaluation Form.** The Human Resources Office publishes an employee evaluation form. Departments may use another form after it has been submitted and approved first by the Human Resources Director. A copy of the employee's official evaluation forms will be kept in the official personnel file folder. A copy of the evaluation form will be given to the employee at the time it is completed.
3. **Appeals.** If an employee is dissatisfied with the rating, the employee may request a new rating from the supervisor. If the supervisor refuses to give a second rating, the employee may provide a written response to the evaluation to be placed in the file.
4. **Responsibility.** The Department Head is responsible to monitor and ensure that all evaluations are conducted annually and be available to advise supervisors on any problems they may encounter.
5. **Review.** The immediate supervisor shall prepare the evaluation rating and shall submit the evaluation to the first line supervisor above the rating supervisor for review and concurrence. Any conflicts in the rating must be resolved before presenting the evaluation rating to the employee.
6. **Time of Evaluation.** Evaluations should be given on or near each individual's anniversary date. Upon written request to the Human Resources Director, a date may be set where all of a department's evaluations become due at the same time each year. Under no circumstances should an employee be permitted to perform for more than a twelve (12) month period without being evaluated.

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SECTION VI. WAGE/SALARY ADMINISTRATION

A. Responsibility

1. The Human Resources Director together with the Department Heads shall be responsible for annually conducting a survey of the prevailing rates of compensation of a sufficient sample of positions in the appropriate labor market area and developing pay recommendations. These recommendations shall be presented to the Chairman or designee, and the Budget and Finance Committee.
2. The Chairman or designee through the Human Resources Office shall be responsible for the development and maintenance of a uniform and equitable classification plan. The classification plan shall be a listing of job class titles with an assigned range of minimum and maximum rates of pay and such immediate schematic steps as equitable.
3. The Tribal Council shall, at least annually, review and adopt market adjustments to the classification plan for all job classes within the Tribe, upon considering the recommendations of the Chairman or designee.

B. Wage/Salary Schedule

1. Wage/salary ranges shall be linked directly to the Position Classification Plan and shall be determined with due regard to the following considerations:
 - a. Kind and level of duties, responsibilities and demands of the class and the maintenance of equitable relationships between classes;
 - b. Prevailing rates of pay for "similar" employment in the public and private sectors;
 - c. Cost of living;
 - d. Other benefits received by employees; or
 - e. The financial policy and economic considerations of the White Mountain Apache Tribe.
2. Upon adoption of a classification plan, the rate of pay for each employee shall be adjusted to a step in the newly assigned range corresponding to a like step in the former range; in no case will an employee's base pay be reduced. Employees' pay cannot exceed the maximum of the range unless they were paid higher than the assigned range at the time the plan was adopted. Any employee paid above the range will not receive an increase until market adjustments move the maximum of the range above the employee's current pay.

C. Appointment Rate

1. The minimum rate of pay for a class shall normally be paid to any person, whether full-time or part-time. An original appointment at a pay level above the minimum rate may be made only with the prior written approval of the Human Resources Director based on exceptional qualifications, and/or Tribal requirements.

D. Re-appointment Rate

1. Persons receiving re-employment appointments to the same or equivalent position may be paid at any step within the pay range, not to exceed the step attained at the time of the separation, at the discretion of the Department Head with written approval from the Human Resources Director.

E. Longevity Step Increase Within Assigned Wage/Salary Ranges

1. Employees shall receive a one (1) step increase for longevity after two (2) years of continuous service. The effective date of this calculation shall be from the employee's last employment date and shall be effective upon the beginning of the next fiscal year (May 1) after their second (2nd) year anniversary. Employees shall continue to receive a one (1) step increase every two (2) years thereafter until a maximum of ten (10) steps have been attained.
2. The following factors shall not affect eligibility for a longevity step increase:
 - a. Pay adjustment resulting from the annual pay survey;
 - b. Transfer within a class or range;
 - c. Approved leave without pay for fewer than thirty (30) days;
 - d. Military leave without pay necessitated by a draft or reserve call-up because of a national emergency;
 - e. A period of paid leave;
 - f. Reclassification to a class of the same pay range or lower; and
 - g. Inadequate performance measured according to merit standards.

F. Change in Position

1. **Promotion (Competitive)**. When an employee is promoted, the employee's pay rate will increase by at least 2 1/2 % or a step increment.

- a. When the employee's pay at the time of application for promotion is below the minimum of the announced pay range, the employee upon promotion receives Step One (1) of the announced range or at least a one step increase (2 1/2 %).
 - b. When the employee's pay at the time of application for promotion is above the minimum of the announced pay range, the employee upon promotion is assigned a step in the new range providing a 2 1/2 % increase.
2. **Demotion.** When an employee is demoted, the rate of pay shall be determined utilizing these guidelines:
- a. **In lieu of Layoff** – depending on budget and position availability, one of the following will apply:
 - (1) If the wage/salary received in the higher range falls within the pay range for the class to which demoted, the employee's rate of pay may remain unchanged.
 - (2) If the wage/salary received in the higher range is greater than the top step for the class to which demoted, wage/salary may be reduced to Step Ten (10) of the lower class range.
 - (3) If the wage/salary in the higher range is greater than Step One (1) of the class to which demoted, the wage/salary may be reduced to Step One (1) or any step within the lower range providing a decrease in pay.
 - b. **For Other Reasons** – usually including voluntary and involuntary demotions:
 - (1) The minimum rate of pay for a class will be paid to an employee being demoted. However, a pay step above the minimum rate may be assigned only on the prior written approval of the Human Resources Director in consultation with the Department Head based on prior service, exceptional qualifications and budget authorization.
3. **Transfer (Competitive) or Reassignment.** When an employee is offered a different position within the same salary range, the pay may remain the same or be reduced to any step including Step One (1) based upon the recommendation of the Department Head, budget availability and prior approval of the Human Resources Director.
4. **Reallocation of Positions.** When a position is reallocated to a class of the same or lower pay range, no pay change occurs. When a position is reallocated to a class of a higher pay range, the provisions governing rate of pay on promotion shall be used to set the wage/salary of the incumbent.
5. **Temporary (Noncompetitive) Assignment.** When an employee is temporarily assigned by the Chairman to a position as acting Department Head, or by the employee's Department Head temporarily assigns an employee as an acting supervisor, and the assignment will be more than

thirty (30) days, the employee shall assume the pay grade accorded to the assigned position. When the assignment ends, the employee shall be returned to his or her original pay grade that existed before the assignment, unless the original pay grade was otherwise adjusted during the temporary assignment.

G. Overtime Pay and Compensatory Time Off

1. **Employees Eligible for Overtime Pay.** Employees in the non-professional, non-exempt position categories shall be paid for overtime at a rate equal to one (1) and one-half (1/2) times the regular hourly rate for work in excess of forty (40) hours per pay period. Overtime must be approved in advance by the supervisor. Paid time off for holidays, annual or sick leave is not considered time worked.
2. **Compensatory Time.** All non-professional employees are eligible for compensatory time at the discretion of their supervisor when budgeted overtime pay is not available. Compensatory time shall be granted at a rate of one hour worked. Use of compensatory time shall occur as soon as possible after incurred, and must be used within one (1) month. Compensatory time should not accumulate over forty (40) hours; departments will maintain records and administer use of compensatory time within these guidelines. Under no condition shall the non-exempt employee be expected to work overtime without being compensated at the overtime rate with money and/or compensatory time. If employee's request to use compensatory time cannot be granted and an unused balance is available when an employee is terminating, the department will arrange for use prior to the effective date of termination. Compensatory time is valid when supervisors request employees to work additional hours and overtime budgeted funds are not available.
3. **Employees Not Eligible for Overtime Pay or Compensatory Time.** Employees in professional, exempt job categories are not eligible for overtime pay or compensatory time, but may be granted compensatory time by their immediate supervisor.
4. **Police, Fire, and Other Departments** may work on special schedules that specifically defines when overtime pay starts within a period (usually a twenty-eight (28) day period). Such special schedules must be approved in advance by the Human Resources Director with the concurrence of the Chairman and the Controller, if warranted, and filed with the Human Resources office.
5. **Overtime Work.** The Department Head and/or supervisor has the right to order or approve overtime work by any employee on any work schedule or tour of duty so long as the cost of the overtime work remains within the budget available to the Department.
6. **Extra Pay for Exempt Personnel.** Department Heads may recommend certain exempt job categories receive overtime pay when work demands require excessive hours of overtime over a number of weeks, or similar circumstances. Prior written approval is required by the Human Resources Director, with the concurrence of the Chairman. Exempt employees receiving overtime pay on a consistent basis will not receive the extra hour of annual leave accumulation.

H. Professional Allowances

1. When an employee is required to utilize their certification as part of their job responsibilities for the Tribe, the Tribe will provide them an opportunity to maintain that accreditation at the Tribe's expense. This would include such items as attendance at conferences, training sessions, course and professional fees, and related travel costs.
2. The employee must obtain prior approval of the Department Head for expenses to be valid.

I. Total Pay

1. Any pay rate established for an employee shall be the total remuneration paid to the employee exclusive of benefits. No employee shall receive pay from the Tribe in addition to that authorized under the schedule provided in the pay plan for services rendered, either in the discharge of ordinary duties or any additional duties which may be imposed upon the employee or which the employee may voluntarily undertake to perform.
2. Employees on boards or committees may not receive compensation from the Tribe or any other source while on the White Mountain Apache Tribe's payroll for the same time period. The employee may use annual leave or leave without pay to receive additional outside compensation for work hours missed. Grant funded employees must take leave without pay or annual leave.
3. Specific pay procedures concerning shifts and payment of the holiday benefit on various schedules will be addressed by the applicable department with review and approval of the Human Resources Director, with concurrence by the Chairman if warranted.

J. Salaried Compared with Hourly Positions

1. Non-professional, non-exempt positions are "hourly" and are paid based on a listed hourly rate times the number of hours worked. The budget lists positions by official title with annualized salary and hourly rate for each. This system is based on the assumption and calculations that a full-time equivalent position will require the accounting of 2080 hours a fiscal year.
2. For budgeting purposes, an annual salary is posted and then divided by the standard 2080 hours to obtain an hourly rate. This method of describing full-time equivalent positions should not be confused with the definition of a full-time employee, which for benefit purposes, is 1560 hours or more per year.
3. The individual employee may utilize hours worked, annual leave and sick leave earned, jury duty, military, etc., to attain the 2080 hours. If more annual and sick leave is used than is earned, then the leave will be carried as leave without pay and therefore deducted from the employee pay check based on the hourly rate.
4. Professional exempt employees are paid based on a scheduled eighty (80) hours per pay period usually eight (8) hours a day. These employees may be paid partial pay weeks when on leave.

without pay, a reduced work schedule or when partial pay periods are worked and paid leave does not apply.

K. Detail Rate of Pay (Temporary Work in Another Classification)

1. Employees assigned to work in a higher classification for more than thirty (30) calendar days will be paid at the corresponding pay range for work in that class. Formal notice of detail must be provided to the employee in writing with a copy to the Human Resources Director prior to or at the time the detail is made. The adjusted pay range will be in effect as authorized by the Department Head after the initial thirty (30) calendar day time period has expired and for the duration of the detail assignment.
2. A detail will normally be limited to four (4) months. Exceptions must be approved by the Human Resources Office.

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SECTION VII. WORK SCHEDULES, PAID TIME-OFF, LEAVE AND FRINGE BENEFIT REGULATIONS**A. Regular Attendance Regulations**

1. **Official business hours.** The period each day when the White Mountain Apache Tribal offices are officially open for business, 8:00 a.m. - 5:00 p.m., Monday through Friday. Establishment and use of other hours must be approved by the Chairman.
2. **Hours of work.** The Normal work day of non-exempt full-time employees shall be eight (8) hours and the normal work week forty (40) hours, where each eight hour day includes one lunch hour, except in occupations where the best interest of the Tribe is served by extended or different hours of work. The Department Head must approve use of flextime or modified work schedules.
3. **Attendance.** Employees shall be in attendance at their assigned work site in accordance with these policies and/or general or departmental regulations. An employee unable to report for duty on a work day shall notify the supervisor or designee of that fact not later than one hour after the beginning of work, unless departmental written rules require an earlier reporting time. Failure to do so without good cause may result in disciplinary action.
4. **Monitoring.** From time to time, the Chairman, upon recommendation from the Personnel Office, the Controller and/or relevant Department Heads may institute methods of monitoring employee compliance with work day and work week requirements to ensure accountability.

B. Leave Authorization

1. **General Provisions.** Leave will be granted based upon the conditions stated for each type of leave or holiday pay described in this section.
2. **Payment for Annual leave at Termination.** Only payment for annual leave available shall be made upon approval by the department and the Human Resources Office at termination. However, any obligation the employee owes the Tribe will be deducted from the pay for leave available. An eligible employee must have satisfied the waiting period of eligibility (90 days) in order to receive an annual pay-out at termination.
3. **Eligibility for Holiday Pay, Sick Leave and Annual Leave.** Temporary, seasonal, occasional or emergency appointments are not eligible for sick leave or annual leave, holiday pay or other benefits. Part-time employees working less than 32 hours per week also are not eligible. A permanent employee on an emergency appointment will, however, accrue and be eligible to use benefits including paid leave and holidays. Eligible employees are subject to the waiting periods and conditions described in this section.

C. Holidays

1. The following days shall be observed as holidays:

- | | |
|---------------------------|-------------------------------|
| a. New Years Day | h. Veteran's Day |
| b. Martin Luther King Day | i. National Indian Day |
| c. President's Day | j. Thanksgiving Day |
| d. Good Friday | k. Day after Thanksgiving Day |
| e. Memorial Day | l. Christmas Day |
| f. Independence Day | m. White Mountain Apache Day |
| g. Labor Day | |

2. The Chairman may designate other days or additional days for observance. Eligible employees can receive holiday pay immediately after being hired.
3. When a holiday falls on a Sunday, the Tribal offices shall be closed on the following Monday. When a holiday falls on a Saturday, the offices shall be closed on the preceding Friday. Holidays occurring during a period of annual leave shall not be considered as a day of leave.
4. Eligible part-time employees schedule to work 20-30 hours a week will receive holiday pay based on a daily equivalent calculated from hours worked the previous pay period.
5. Departments with seven (7) day a week operations should allow eligible employees to observe holidays in a manner that is equitable. This schedule fo observance shall require prior written approval of the Human Resources Director.
6. Non-professional, non-exempt employees who work on holidays shall receive time and a half regular hourly pay for hours worked on a holiday and holiday pay at the regular hourly rate. Employees with supervisory concurrence may elect to receive a different day off instead of holiday pay.

D. Annual Leave

1. **Accumulation.** Full-time, permanent or appointed employees shall be granted annual leave according to the following schedule. Approved accumulated annual leave may be used for any purpose. Those who have worked continuously without an excused absence, or those have had no more than one written offense, will have leave on the following basis:

<u>Length of Employment</u>	<u>Rate of Leave Accumulation</u>
0 to 3 years of service	4 hours of annual leave per pay period
3 to 15 years of service	6 hours of annual leave per pay period
15 years of service or more	8 hours of annual leave per pay period

From the date of policy adoption forward, leave accrual will be calculated from a new employee's hire date or from a former employee's rehire date giving credit for prior service.

2. Eligible **part-time** employees working and scheduled to work less than thirty (30) hours a week will receive a percentage of full-time accrual based on hours worked and scheduled according to the nearest quartile, i.e., twenty (20) hours worked per week provides 50% accrual; thirty (30) hours

worked per week provides 75% accrual. Part-time employees working and scheduled to work more than twenty (20) hours a week are not eligible for annual leave.

3. **When Detailed.** If a permanent employee is detailed to another position, the employee shall remain eligible for all benefits granted to permanent employees, subject to the same conditions and limitations.
4. **Waiting Period and Use of Annual Leave.** Eligible employees may use annual leave after ninety (90) calendar days of satisfactory service. Approval and timing of leave shall be authorized by the Department Head or immediate supervisor by weighing the program requirements with the needs of the employee.
5. **Employees are expected to use annual leave.** Time off from work is needed for rest and relaxation. Leave available shall be taken normally within one (1) calendar year from the day earned. Supervisors and managers will work with employees to insure the use of annual leave is planned in advance not affecting the work unit.
6. **Maximum Accumulation of Annual Leave.** At the beginning of each calendar year an employee may carry forward a maximum of 240 hours (30 days). No employee may receive payment for accumulated leave, unless separating from employment. There shall be no maximum accumulation for policy exempt employees who may bank all of their accumulated annual leave.
7. **Transfers.** When accepting a reassignment promotion or demotion between department employees can transfer up to fourteen (14) days of accumulated annual leave and all accumulated sick leave, except for federal grant funded positions. The receiving Department can allow transfer of annual leave above fourteen (14) days or cash payment shall be made for all accrued annual leave not transferred prior to employee reassignment. No cash payment may be made for any accumulated sick leave.

E. Bereavement Leave

1. An employee, upon giving notice, shall be permitted to use up to two (2) days of bereavement leave in the event of a death in the employee's household/family (as defined in these policies). For requests greater than two days, leave without pay shall be granted.
2. Prior to or upon return from leave, the employee shall provide the supervisor with an obituary notice, service announcement, card or other document referencing the death bereaved. The relationship of the employee to the deceased should be noted in writing.

F. Sick Leave

1. **Purpose.** Sick leave shall not be considered as a privilege which an employee may use at the employee's discretion, but shall be allowed only in case of necessity and actual sickness or disability. The employee may also use sick leave to meet dental or medical appointments, take physical examinations, or other sickness prevention measures. Sick leave may also be used to tend the health

needs of one's immediate family. Sick leave may be taken by any eligible employee unable to work due to pregnancy, with written verification from the employee's doctor that the employee is physically unable to perform the duties of the job.

2. **Waiting Period.** Sick leave and health insurance benefits shall be available to eligible employees according to the provisions of this paragraph and subject to the accumulation schedule which follows. Sick leave and health insurance benefits shall not be granted to new employees during the first ninety (90) calendar days of employment. An employee being rehired or transferred from another department or branch that has a credit balance of sick leave will have the balance reinstated, and the employee is not subject to the ninety (90) calendar day waiting period.
3. **Accumulation.** Sick leave for full-time eligible employees will be accumulated at the rate of four (4) hours per pay period beginning the first day of employment. Unused sick leave may be carried forward from year to year without limitation.
4. Eligible **part-time** employees working and scheduled to work more than thirty-two (32) hours a week will receive a percentage of full-time accrual based on hours worked and scheduled according to the nearest quartile, i.e., twenty (20) hours worked per week provides 50% accrual; thirty (30) hours worked per week provides 75% accrual. Part-time employees working less than thirty-two (32) hours a week are **not** eligible for sick leave.
5. **Payment.** At no time shall payment be made in-lieu-of time off for sick leave or for accumulated sick leave upon separation.
6. **Certification of Illness.** A request for authorization of sick leave pay must be completed by the employee on the day of the employee's return to work. For sick leave in excess of three (3) days, or if abuse of sick leave is indicated, a Department Head or the Human Resources Director may require either an independent medical examination, or a certificate or note from the attending physician or provider of traditional medicine stating that such illness prevented the employee from working. The Department Head may also require a physician statement of release to return to work.
7. **Approved Use of Sick Leave.** In order to qualify for sick leave an eligible employee must notify the supervisor or Department Head prior to but no later than one (1) hour after the normal starting time on each day of absence unless the circumstances surrounding the absence make such notification impossible. The supervisor should be kept advised of the employee's progress and expected date of return to duty.

G. Absence Without Leave

1. Any unauthorized absence of an employee from duty may be grounds for disciplinary action. Any employee who is absent for three (3) consecutive work days without authorization shall be deemed to have resigned. Where extenuating circumstances are documented and caused the unauthorized absence, such absence may be approved by the Department Head through a subsequent and retroactive grant of leave with or without pay.

H. Injury Leave

1. Any employee injured on the job, however slightly, must report the fact immediately to the supervisor. If the injury requires immediate medical attention, the employee shall be taken to the appropriate health care provider.
2. It shall be the duty of the injured employee's Department Head to obtain information regarding the accident or injury and to complete and submit such reports as are required by the Human Resources Director. The health care provider must also be informed by the employee that the injury is job related.
3. Method of pay during injury leave will vary based on length of service and degree of injury. The employee's supervisor must consult with the Human Resources Office following the injury to determine the employee's pay status.

I. Family and Medical Leave (FMLA)

1. **Purpose.** The Tribe will observe the requirements of the Family and Medical Leave Act in providing leave to employees utilizing the following provisions. When this leave is utilized, an eligible employee must obtain a form from the Human Resources Office and any question concerning applicability of the leave explained to the immediate supervisor and employee by a staff member from the Human Resources Office.
2. **Eligibility and Amount of Leave.**
 - a. Family and Medical leave will be granted to permanent employees who work over twenty (20) hours per week who have completed twelve (12) months of service with any branch of the Tribe. Such leave will consist of at least twelve (12) weeks of unpaid leave in addition to paid leave available for: birth, adoption or foster care placement where the employee is the parent; or a serious health condition involving the employee, the employee's spouse, child or parent.
 - b. Paid leave balance may be used to the extent available and applicable. Sick leave can be utilized for reasons described in SECTION VIII. E. SICK LEAVE including employee illness or serious health condition of a spouse, child or parent. Annual leave will be used for any reason described above when sick leave does not apply or has expired.
 - c. In cases when a husband and wife are both employed by the Tribe and are entitled to leave, the total number of weeks for both employees may be limited to twelve (12) weeks if taken for childbirth, adoption, or to care for a sick parent or child.
 - d. An employee may receive at least twelve (12) weeks of unpaid FMLA leave per year with that leave year beginning when family and medical leave is first requested and taken by the employee.

e. Additional leave without pay may be requested as provided in **SECTION VIII. L. LEAVE WITHOUT PAY.**

3. **Benefits While on Leave.** Taking family and medical leave will not result in the loss of any employment benefit accrued before the date that the leave began. "Employment benefit" means all benefits provided or made available to employees of the Tribe including group life insurance, health insurance, disability insurance, sick leave, annual leave and retirement plan as contained in these policies or Tribal employee benefit plans. While on family and medical leave, the employee is entitled to continue health, life, dental, long term disability insurance at the Tribe's expense. Retirement contribution and leave accrual will continue based only on hours paid.

J. Military Leave

1. Leave for military training shall be granted without pay up to thirty (30) days per year; however, the employee may take annual leave, subject to any applicable grant restrictions. In time of a national emergency and/or draft, leave without pay shall be granted for the period that a permanent employee is called up by the military for such service.
2. Benefits. Taking military leave will not result in the loss of any employment benefit accrued before the date that the leave began. An employee returning from military service shall be re-instated to the level of benefits and seniority that the employee would have enjoyed had the service not occurred.
3. Re-instatement. Within ninety (90) days after the employee with 180 days of military service receives an honorable discharge, the employee must make a written application for immediate reinstatement to their former position, provided the employee is able to perform the required services. For those employees returning from military service resulting from a national emergency or draft, the Tribe shall make all reasonable efforts to ensure that the employee be returned to his or her original position. In the event that the position is grant funded and such funding has expired, the Tribe shall make all reasonable efforts to provide a similar position and wage scale to the employee.

K. Jury Leave

1. Leave for jury duty shall be granted with pay. Employees will retain jury fees, subject to grant restrictions applicable to that employee's position.

L. Administrative Leave

1. The granting of administrative leave with or without pay shall be used for such activities as attending conferences, training and job-related purposes, at the discretion and direction of the Department Head.
2. Closure of a department for administrative leave must be approved in advance by the Chairman.

M. Leave Without Pay

1. Upon recommendation of the Department Head and approval of the Human Resources Director, a permanent employee who has at least one (1) year of service may be granted leave without pay for a specified period of time, usually not to exceed one (1) year except when it is determined to be in the best interest of the Tribe.
2. At the expiration of a leave without pay, the employee shall return to the same position when feasible. Failure of the employee to report within three (3) consecutive working days from the date of expiration of such leave shall be considered a voluntary resignation.
3. Leave without pay shall not constitute a break in service. During leave without pay in excess of thirty (30) calendar days, annual leave, sick leave, and time toward annual evaluation shall not accrue and holiday pay is not available. Extended coverage for health insurance is available through the federal Consolidated Omnibus Budget Reconciliation Act ("COBRA") at the employee's expense. The Tribe shall provide continuing coverage for life and disability insurance.

N. Contribution/Donation of Sick Leave**1. Policy**

- a. It is the policy of the Tribe that any employee may contribute sick leave hours to another employee who has exhausted all accrued sick and annual leave because of a non-job related seriously incapacitating and extended illness or injury to either the employee or an immediate family member.
- b. Information regarding an employee's need for donation of sick leave may be circulated or posted on bulletin boards with the recipient employee's written consent on file in the Human Resources office. Information notices are limited to identifying the employee with the need for leave and should refer prospective donors to the Human Resources office. There shall be no coercion directed at employees to donate leave.
- c. The Human Resources office shall approve transfers of applicable leave.

2. Eligibility

- a. The donating and receiving employees must be eligible to accrue and use sick leave.
- b. The donating and receiving employees must be Tribal employees.
- c. The illness or injury must be seriously incapacitating and extended as determined by a licensed health care practitioner or traditional healer.
- d. If the receiving employee is the one seriously incapacitated or ill, the injury or illness must be non-job related.

e. The employee must have exhausted all sick and annual leave.

3. **Definitions.** For purposes of this policy section only, the following definitions apply:

Donor means an employee who is eligible to donate leave to another employee and does so in writing.

Permanent Employee means any employee eligible to accrue leave.

Extended means a period of three (3) or more weeks of absence from the job.

Immediate Family Members means the employee's parents, spouse and children.

Medical Statement means a written document, on appropriate letterhead, which reflects a full diagnosis of the illness, a statement that the person is unable to work, attend school, etc., and a prognosis to include anticipated date of recovery, provided by a licensed health care practitioner or traditional healer.

Recipient means an employee who is eligible to receive donation of leave by meeting the defined criteria.

Seriously incapacitating means any serious illness or injury which confines the employee or immediate family member to home or bed for an extended period of time.

4. **Procedures**

- a. Any Tribal employee may contribute one (1) or more hours of sick leave to another employee who has exhausted all applicable accrued leave because of a non-job related, seriously incapacitating and extended illness or injury to either the employee or an immediate family member. An employee receiving contributed sick leave from another only receives the time and not the value of said leave.
- b. The recipient shall provide a medical statement explaining the health-related condition to the immediate supervisor along with a written request to receive donated leave.
- c. The supervisor and Department Head will sign the approval section of the Authorization of Transfer of Leave and forward it to the Human Resources Office.
- d. The Human Resources Office will review the information, confirm that the individual is eligible to receive donated leave and, if for an immediate family member, that eligibility criteria are met.
- e. Once the application for transferred leave has been approved and filed, an employee who then receives a partial medical release to return to work may continue to receive transferred leave

to supplement partial pay until a full medical release is obtained from a licensed health care practitioner or traditional healer.

O. Fringe Benefits

1. In addition to providing the types of leave and benefits described herein, a comprehensive employee benefits plan is available to certain Tribal employees. Details about these benefits and eligibility are available from the Human Resources Office.

P. Travel Expenses and Per Diem

Concerning travel expenses and per diem as issued pursuant to Resolution and Executive Order, the Chairman of the Tribe will be adhered to by all employees.

Q. Personnel Records and Administration

1. Employees may review their official personnel file folders at a reasonable time scheduled by the Human Resources Office.
2. Others on official business shall be allowed access to personnel records only with the approval of the Human Resources Director or designee. An employee may receive copies of that personnel records at a reasonable cost set by the Human Resources Office.
3. Inquiries concerning employment, earnings and pay will be completed and responded to with the employee's signed authorization.
4. Release of information or verification of employment will only be provided in compliance with applicable statutes or court order, otherwise all other information in the personnel file shall be kept strictly confidential.

R. Education and Training

1. General Policy Statement

- a. The Tribe recognizes the value of pursuing education in the professional growth of all its employees to ensure the delivery of quality services to the Tribe's people. The training and education of the Tribal employees promote job advancement, career development and personnel enhancement.
 - b. WMAT Preference and Building Tribal Capacity. Professional and career development of members of the Tribe is . . .
2. Education and Training Defined. For the overall operations of this policy, the Tribe makes the distinction between Training and Education as follows:

a. **Training:**

Training is defined as short-term non-degree preparation, such as but not limited to, conferences and workshops, personal growth seminars, skills enhancement and substantive and/or specialty development. This list is illustrative only and is not a comprehensive listing. Other areas that require short-term/one time training needs shall be determined on the basis of additional demands of specific programs. Such additional training will be determined by a Department Head based upon assessments of need, available resources and opportunities.

b. **Education:**

Education is defined as long-term cumulative academic preparation usually leading to an Associate, Bachelor's and/or Graduate level degree, and all certification and/or license work required for specific job skills.

3. **Decision-Making Authority**

- a. The Department Head is responsible for making decisions regarding employee participation in education and training based upon the recommendation of the immediate supervisor.
- b. Each department head or designee will assess and set each program's goals in relation to the education, training and career development of their employees.

4. **Eligibility Criteria for Training and Time Off for Training**

- a. Employees will be granted permission to attend training and/or education during work hours on the basis of the following criteria:
 - (1) Need (program goals and staff needs).
 - (2) Availability of financial resources to fund such training.
 - (3) Staff availability and program coverage.
 - (4) The employee's expressed desire for a career with the Tribe as an employer.
- b. Paid administrative leave is available when authorized by the Department Head and the training request meets the requirements stated above.
- c. If paid leave cannot be granted, the Department Head can consider utilizing credit hours or other flexible schedules to accommodate the employee's request.

5. **Leave for Education Purposes.** Department Heads may grant time off during the regular work schedule for education or training courses when course content is directly related to the employee's job or degree plan and work demands allow it.

- a. **Administrative Leave With Pay.** In some circumstances, Department Heads may provide employees up to six (6) hours of administrative leave per week during working hours at an approved educational institution when attainment of employee education goals are in the best interest of the Tribe and work demands allow it. If, upon consultation with the program manager and/or supervisor, an employee determines he/she will need more than the maximum average of six (6) hours per week to complete course work, the employee may submit a request through their immediate supervisor to the Department Head for review. Approvals from the Human Resources Director and Chairman of the Tribe are also required.
- b. **Leave Without Pay.** Department Heads may utilize credit hours or other flexible work schedules to provide time off without pay for weekly course work when attainment of employee education goals are in the best interest of the Tribe and work demands allow it.

Extended periods of leave without pay may also be granted according to provisions of leave without pay as explained in **SECTION VII. L. LEAVE WITHOUT PAY.**

6. Financial Assistance

- a. The department or program will provide financial assistance and support services only when and if available. Such financial assistance may include payment for registration, tuition, books, materials and related fees.
- b. Financial assistance shall be withdrawn in the event that an employee receives a grade of "minus" or lower.
- c. If a payment is made in advance, the employee should adhere to course withdrawal requirements if the course is not completed. A signed statement will be required at the time enrollment is requested recognizing that the employee assumes the expense when the course is not completed and a refund is not available.
- d. Department Heads will encourage employees to seek other funding opportunities to supplement their education and training.
- e. Extended or costly programs of study would generally be financed only for those employees that have made a commitment to a career with the White Mountain Apache Tribe.

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SECTION VIII. EQUAL EMPLOYMENT OPPORTUNITY AND INDIAN PREFERENCE

A. General Statement of Equal Employment Opportunity EEO Policy

1. All conditions, and privileges of employment shall be administered without regard to political affiliation, family ties, age, marital status, race, color, sex, national origin, disability, religious creed, or any other non-merit based consideration.

B. Indian Preference

1. Proper regard will be given for an applicant's privacy and constitutional rights as citizens, except that Indian preference shall be exercised in favor of enrolled White Mountain Apache Tribal Members and then in favor of other enrolled members of federally recognized Tribes and Nations, unless otherwise restricted by the terms and conditions of an applicable grant or agency. For the purpose of this policy, White Mountain Apache is defined as someone who is a legally enrolled member of the White Mountain Apache Tribe. Preference in hiring will be given after a candidate first meets the minimum qualifications for a job; preference in selection is based on priority listings. If a White Mountain Apache Tribal Member is available and fully qualified for the job, he or she shall be hired.

C. Armed Services

1. After an applicant has been evaluated for Indian preference, as described in **SECTION VIII-B** above, additional preferential consideration shall be exercised in favor of veterans of the U.S. Armed Forces.

D. Sexual Harassment

1. It is the policy of the Tribe that all employees have the right to work in an environment free from all forms of discrimination and conduct which can be considered harassing, coercive or disruptive, including sexual harassment.
2. Sexual harassment is a form of misconduct that undermines the integrity of the employment relationship. No employee, either male or female, should be subject to unsolicited and unwelcome sexual overtures or conduct, either verbal or physical. Sexual harassment does not refer to occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, that is personally offensive that debilitates morale and interferes with work effectiveness. Such behavior by employees may result in disciplinary action up to and including dismissal.
3. If an employee feels he or she is being harassed and cannot for whatever reason discuss the problem with the appropriate director, supervisor or manager, the employee should file a complaint with the Human Resources Director.
4. A report of sexual or other harassment shall be treated seriously, and a thorough investigation shall be conducted. An employee who files a complaint will be treated fairly and courteously at all times without fear of retaliation.

SECTION IX. EMPLOYEE CONDUCT AND DISCIPLINARY ACTIONS**A. Conditions of Continued Employment**

1. Current employees in certain job categories as designated by the Department Head and Human Resources Director may be required to meet the pre-employment requirements stated in **SECTION III. G. 2.** at any time during their employment. Refusal of an employee to meet these requirements will result in his or her dismissal.

B. Employee Conduct

1. **General Policy.** Employees shall conduct themselves in a professional manner at all times. Employees shall avoid any action which may result in, or create the impression of, using public office for private gain, giving preferential treatment to any person, or expressing favoritism in the conduct of the business of the Tribe.
2. **Receipt of Gifts.** Potential problems could exist when employees establish working relationships with current or possible vendors or service recipients of the Tribe, and opportunities exist to influence the purchasing or contracting decision or provision of service. Whenever a gift is received, the acceptance must be reviewed by a supervisor. Under no circumstances would a loan or acceptance of money be acceptable.
3. **Outside Employment.** No employee may engage in additional employment which in any manner interferes with the proper and effective performance of regular duties, or which results in a conflict of interest. Employees with outside employment must notify their immediate supervisor in writing. If the Human Resources Director and the Department Head determine that such outside employment is detrimental to the Tribe's interest, the employee shall terminate such employment.
4. **Confidentiality.**
 - a. Certain departments with unique information such as personal data on service recipients, applicants or employees, medical records, or criminal histories require specific guidelines on release due to respect for the person's privacy and legal requirements. Employees should consider any information in these categories as confidential. Confidential information should be released only with prior approval of the Department Head and the Human Resources Office Director, and only to the individual or in response to a subpoena or authorized request.
 - b. Members of the Tribe have a right to know how services are being provided and public service activities are being conducted. If there is a question as to whether a person's right to know conflicts with maintaining confidentiality, the supervisor should make the decision as to whether or not that information should be released.
 - c. Also, certain financial and enterprise data should be secured and released only as authorized by the supervisor. Employees of the Tribe are expected to maintain confidentiality and are prohibited from using information available to them for the benefit of themselves or others.

- d. Disclosure of some records shall be subject to the Tribe's Employee Medical Benefits Plan (the "Plan"). While the Tribe is a sovereign governmental employer, it has elected to abide by "privacy standards" modeled after Health Insurance Portability and Accountability Act of 1996 Privacy Standards ("HIPPA", Title XI as amended by P.L. 104-91; 42 U.S.C. 1301 *et seq.*). Notwithstanding anything in the Plan to the contrary, the Tribe's adoption of policies and procedures consistent with or modeled after HIPPA is not intended as a waiver of any exemptions to which the Tribe may be entitled to as a result of its governmental status or a waiver of the Tribe's sovereign immunity, a consent to jurisdiction outside the Tribe's judicial system, or a consent to enforcement authority, actions, or assessment, except as may be expressly made applicable to tribal governments. The Tribe's exemptions and sovereign immunity, however, shall not extend to service providers for the Plan, which shall be held to full compliance standards and enforcement requirements as would be applicable if the provers were providing services to a private sector plan.
5. **Nepotism.** An employee who is a member of any authority, committee, department, enterprise of the Tribe, who is responsible for recommending or selecting an applicant, or otherwise involved in a personnel action concerning another employee who is in the immediate family of such applicant or other employee shall be disqualified from participating in the recommendation or selection of the applicant or from participating in the personnel action. No employee may be assigned to a unit or office supervised by a member of his or her immediate family. In the event that nepotism occurs, the affected employee shall be given a reasonable time to transfer to another position, or the employee will be required to report to another unrelated person if such person is available.
6. **Political Activity**
 - a. Employees are encouraged to exercise their political rights as citizens, to vote as they may choose, to support candidates of their choice and express their political opinions outside of work hours and away from the workplace.
 - b. Employees may not:
 - (1) Use his or her official authority or workplace for the purpose of interfering with or affecting the result of an election or nomination for office with the White Mountain Apache Tribal government.
 - (2) Directly or indirectly coerce, attempt to coerce, command, or advise a fellow employee to pay, lend, or contribute anything of value to a party, committee, organization, agency or person in furtherance of a partisan political purpose.
 - (3) Engage in any political activity during scheduled working hours or at the workplace.
 - c. Employees may state opinions, assist in drafting legislation and contact elected officials during the course of their work as included in their responsibilities.

- d. Employees may be a candidate for public office as long as those activities do not conflict with their job.
 - e. Any questions concerning the conduct of political activity should be directed to the employee's supervisor and Department Head.
7. **Appearance and Attire.** The Tribe's public image is directly related to the impression made by employees, individually and collectively. Personal appearance, quality of service, and positive attitudes of all employees are essential to creating and maintaining a favorable public image. Attire should promote a businesslike and professional attitude and image in relation to each specific job. Hickeys (defined as visible, bruising marks that are not the result of a violent act or crime, but rather a consensual act) or extreme forms of dress, hairstyle, and/or makeup are not acceptable. Departmental guidelines may be issued by Department Head as may be required in order to assist employees in applying this policy while employed in that department.
8. **Policy Regarding Alcohol and Drugs.** Abuse of alcohol and drugs is a major barrier to the success of tribal organizations, the provision of government services, and business. Resolution No. 02-91-43 established the White Mountain Apache Tribe as a drug and alcohol free workplace. This Drug and Alcohol Free Workplace Policy complies with the Drug and Alcohol Free Workplace Act of 1988, 41 U.S.C. § 701 *et seq.*
- a. **Rationale.** The rationale for this policy is as follows:
 - (1) To establish and maintain a safe, healthy working environment for all employees;
 - (2) To insure the reputation of the White Mountain Apache Tribe and its employees as good, responsible citizens;
 - (3) To reduce the incidence of accidental injury to persons or property;
 - (4) To reduce absenteeism, tardiness and indifferent job performance; and
 - (5) To provide assistance toward rehabilitation for any employee who seeks the Tribe's help in overcoming any addiction to, or dependence on or problem with alcohol or drugs.
 - b. **Benefits Inconvenience; Cooperation**

Employees with drug and alcohol abuse problems make up only a small fraction of the work force, and the Tribe regrets any inconvenience that may be caused to the many non-abusers by the problems of the few. It is believed, however, that the benefits to be derived from the reduction in number of accidents, the greater safety of all employees, and the rehabilitation or termination of those who, because of alcohol or drugs, are a burden upon all other employees, will more than make up for any inconvenience or loss the rest of us must be subject to. The Tribe earnestly solicits the understanding and cooperation of all employees in implementing the policies set forth herein.

c. **Definitions**

- (1) **Alcohol or alcoholic beverage** – means any beverage with an alcoholic content in excess of 0.5% by volume;
- (2) **Drug** – means any substance (other than food or alcohol) capable of altering the mood, perception, pain level, or judgment of the individual consuming it;
- (3) **Prescribed drug** – means any drug or controlled substance, the sale or consumption of which is legal; and
- (4) **Illegal drug** – means any drug or controlled substance, the sale or consumption of which is illegal.

d. **Employee Assistance Program**

- (1) Any employee who feels that he or she has developed an addiction to, dependence upon or problem with alcohol or drugs, legal or illegal, is encouraged to seek assistance. Assistance may be sought by writing in confidence to, or asking for a personal appointment with, designated representative(s) for the Tribe's Employee Assistance Program.
- (2) Each request for assistance will be treated as confidential by the designated representative in the Health & Human Services or Human Resources Office.
- (3) The designated representatives will be responsible for developing contacts with local hospitals and community organizations offering alcohol or drug treatment programs (e.g., Care Units, Alcoholics Anonymous, Narcotics Anonymous, Community Health center, and for referring employees seeking assistance to an appropriate treatment organization.
- (4) Rehabilitation itself is the responsibility of the employee. Any employee seeking medical attention for alcoholism or drug addiction will be entitled to benefits, which shall include sick leave and benefits under the White Mountain Apache Tribe's group medical insurance plan or the Tribe's Employee Assistance Program, whichever program applies to that particular employee.
- (5) Upon successful completion of treatment, the employee will be returned to active status without reduction of pay or seniority.

e. **Rejection of Treatment – Failure of Rehabilitation**

Any employee suffering from an alcohol or drug problem who rejects treatment or who leaves a treatment program prior to being properly discharged may be subject to immediate termination. The recurrence of an alcohol or drug problem is cause for dismissal.

f. **Alcoholic Beverages**

- (1) No alcoholic beverage will be brought into or consumed at the workplace or while at work.
- (2) Drinking or being under the influence of alcoholic beverages while on duty may be cause for dismissal.
- (3) Any employee whose off-duty abuse of alcohol or other substance, results in excessive absenteeism or tardiness or is the cause of accidents or poor work will be referred to the Employee Assistance Program for assistance in seeking rehabilitation. If the employee refuses or fails rehabilitation, he/she may be dismissed.

g. **Prescription Drugs**

- (1) No prescription drug shall be brought upon the work place by any person other than the person for whom the drug is prescribed by a licensed medical practitioner, and shall be used only in the manner, combination and quantity prescribed.
- (2) Any employee whose abuse of prescription drugs results in excessive absenteeism or tardiness or is the cause of accidents or unsatisfactory performance, will be referred to the Employee Assistance Program for rehabilitation, on an outpatient basis. If employee refuses or fails rehabilitation, he/she may be subject to dismissal.

h. **Illegal Drugs**

- (1) The use of an illegal drug or controlled substance or the possession of same on or off duty may subject an employee to dismissal.
- (2) The sale, trade or delivery of illegal drugs or controlled substances by an employee to another person may be subject to dismissal and referral to law enforcement authorities.
- (3) The “occasional,” “recreational,” or “off-duty” use of illegal drugs will not be excused. The Tribe’s experience in recent years indicates that employee involvement with illegal drugs, even “for recreational use” may be expected to result in:
 - (a) Financial and domestic difficulties and, as a result:
 - (i) unstable work performance;
 - (ii) theft.
 - (b) Embarrassment to the Tribe due to:
 - (i) arrests of employees;

- (ii) poor public relations, unsatisfactory work, short tempers, or similar unsatisfactory conduct.
 - (c) A growing ring of drug use as users supply others.
- i. **Testing**
 - (1) The White Mountain Apache Tribe may require employees and applicants be tested for drugs or alcohol upon hiring or during employment according to established procedures.
 - (a) Offers of employment may be conditional on passing a drug test.
 - (b) Current employees may be subject to random testing or selected for testing for the following reasons:
 - (i) when it is suspected that the employee's work performance may have been affected in any way by drugs or alcohol;
 - (ii) whenever an employee is involved in an accident.
 - (2) Any test for drug or alcohol abuse will be conducted using reasonable procedural safeguards along with confidential reporting to Human Resources with results made available to the employee or applicant.
 - (3) Supervisory training is available to identify job performance issues that may reflect drug or alcohol abuse. When a supervisor concludes that declining job is not satisfactory, with concurrence of the Human Resources Director, arrangements will be made for a certified breath, saliva, urine, and/or blood test for alcohol or drug abuse.
 - (4) Any positive drug test is a violation of the White Mountain Apache Tribe's drug and alcohol abuse policy and may be grounds for dismissal.

C. Causes for Disciplinary Action

1. It is the responsibility of all Tribal employees to properly execute the functions of the Tribe. The following reasons are established for the purpose of authorizing disciplinary action where warranted. Such measures shall follow the presentation of charges to the employee which may include, but need not be wholly limited to, those listed in this section. An employee may be subject to immediate dismissal or other disciplinary action for the following or similar actions in addition to those requirements outlined in **SECTION IV. B. EMPLOYEE CONDUCT**.
 - a. Gross neglect of duty or refusal to comply with a lawful instruction unless such instruction is injurious to the employee's or general public's health or safety.

- b. Failure to use the appropriate chain of command in resolving conflicts and/or other action that may be deemed insubordination.
- c. Conviction of a felony while an employee of the Tribe or otherwise incarcerated yet on a work release program. NOTE: All employees who have been charged with a crime, must report the charges immediately to their supervisor. In the event of criminal charges being filed against an employee, the employee may be temporarily transferred to another position.
- d. Driving under the influence of drugs or alcohol.
 - (1) If an employee has been criminally charged with driving under the influence of drugs or alcohol, whether on or off work, and the employee's position requires driving a tribal vehicle or operating heavy equipment, the employee's driving privileges shall be revoked until such time as the charges are either withdrawn, dismissed or the employee is found not guilty.
 - (2) In the event that an employee is found guilty of and convicted for driving under the influence of drugs or alcohol, the employee will be banned until such time as the employee has successfully completed state statutory, mandated or court ordered compliance with motor vehicle operation and insurance requirements, a drug and alcohol education course, successful completion of a rehabilitation program of a state licensed provider, the conviction is a first offense, and proof of the successful completion of said requirements are provided to and approved by the Tribe's insurance carrier.
 - (3) In the event that an employee commits and is convicted of a second offense of driving under the influence of drugs or alcohol, the employee will be banned from driving a Tribal vehicle for three years and subject to compliance with subparagraph (2).
 - (4) In the event that an employee commits and is convicted of a third offense, the employee shall be permanently banned from driving a Tribal vehicle.
- e. Deliberate action or careless conduct endangering the safety or health of employees and/or others.
- f. Inducing or attempting to induce any employee in the service of the Tribe to commit an unlawful act or to act in violation of any White Mountain Apache Tribal law, ordinance, code, regulation, resolution, policy or executive or departmental order.
- g. Using, or threatening, or attempting to use personal or political influence in an effort to secure consideration of or an actual benefit from another White Mountain Apache Tribal employee.
- h. Incompetence and/or inefficiency in the performance of job duties which result in not maintaining a satisfactory rating on performance evaluations and/or similar documents.

- i. Carelessness, recklessness or negligence with money or property of the Tribe.
- j. Theft or intentional destruction of White Mountain Apache Tribal property.
- k. Intentional falsification of personnel records, time reports, or any other White Mountain Apache Tribal records, including but not limited to grant applications, reports to funding sources and audit responses.
- l. Unauthorized release of confidential information or official records.
- m. Stating or publishing (a) false statement(s) about an official or employee of the White Mountain Apache Tribe, or the Tribe itself, with the intent to damage the integrity or reputation of the official or employee or the Tribe.
- n. Unauthorized release, removal, or destruction of information related to employment, payroll, or work-related records or reports.
- o. Discourteous treatment of the public or other employees, including harassing, coercing, threatening, or intimidating others.
- p. Accepting or soliciting any gratuities, tips or loans.
- q. Use of White Mountain Apache Tribal fax machines, telephones, computers, vehicles or other property or equipment without prior approval, or unlawful operation.
- r. Being under the influence of intoxicants or drugs while on duty or any other violation of **SECTION IV. B. 7. POLICY REGARDING ALCOHOL AND DRUGS.**
- s. Sleeping on duty.
- t. Discrimination or harassment as defined in **SECTION VIII. EQUAL EMPLOYMENT OPPORTUNITY.**
- u. Absence from work for three (3) consecutive days without authorization.
- v. Excessive absenteeism and/or tardiness, abuse of sick leave.
- w. Fighting, horseplay or practical jokes.
- x. Violating a safety rule or safety practice.
- y. Smoking in unauthorized areas.
- z. Failure to report to work without notification to the immediate supervisor or designee, on any work day, unless it is impossible to give such notice.

- aa. Inattentiveness to work, quitting work before proper time, or leaving the employer's premises during working hours without authorization from the immediate supervisor.
 - bb. Vending, soliciting, gambling, or collecting contributions on the employer's time or premises without proper authorization.
 - cc. Indulging in offensive conduct or using offensive language towards the public or towards the Tribe, its officers or employees.
 - dd. Wrongful personnel actions by a supervisor as determined by a Grievance Committee decision.
2. Permanent employees subject to disciplinary action or dismissal under the provisions of the above policies may file a grievance under the procedures described in **SECTION X**. Probationary employees may grieve only on a claim of discrimination as defined in this policy.
- D. Disciplinary Actions.** A Department Head or supervisor can initiate disciplinary actions as described below. Action may be taken at any level without prior warning depending on the circumstances and the severity of the offense.
1. **Oral Warning.** Whenever grounds for disciplinary action exist, and the supervisor determines that more severe action is not immediately necessary, the supervisor shall orally communicate to the employee the supervisor's observation of the deficiency if feasible at the time the conduct is observed. The supervisor should make a record of the oral warning. Whenever possible, sufficient time for improvement should precede formal disciplinary action.
 2. **Written Reprimand.** An immediate supervisor may issue a written reprimand with a written advanced signed concurrence from the Department Head. Such reprimand shall be in writing and be addressed to the employee. A copy signed by the employee acknowledging receipt shall be delivered to the Human Resources Office for inclusion in the employee's permanent personnel file. If an employee receives two (2) written reprimands, for the same or different conduct, within a period of twelve (12) consecutive months, the employee may, at the time of issuance of the third (3rd) such notice, be dismissed. Written reprimands will remain in force for two (2) years.
 3. **Suspension.** A Department Head, with the written concurrence of the Human Resources Director, may suspend without pay a permanent employee for up to, but not exceeding, thirty (30) calendar days, as a disciplinary measure for cause. The Human Resources Director and the employee shall be furnished with a written copy of the statement setting forth reasons for suspension and notifying the employee of the right to appeal as provided in **SECTION X**. Suspensions over thirty (30) days must be approved by the Chairman.
 4. **Demotion.** A Department Head, with the written concurrence of the Human Resources Director, may demote or reduce in grade any permanent employee in the department for either the good of the department and/or for a disciplinary measure for cause. A permanent employee, demoted or reduced in step, shall have the right of appeal as provided in **SECTION X**.

5. **Termination for Cause.** A Department Head may, with the written concurrence of the Human Resources Officer, terminate for cause any employee in their department by delivering a written notice to the employee clearly stating the grounds for termination. Grounds for termination must be based on conduct described in **SECTION IX**. A copy of this notice shall be provided to the Human Resources Director at the time of termination. Upon receipt of such written statement of termination the employee may appeal as provided in **SECTION X**.

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SECTION X. EMPLOYEE FORMAL GRIEVANCE AND APPEAL PROCEDURES**A. General**

1. Any permanent employee who is aggrieved by any action which is related to working conditions, pertaining to any term, condition or privilege of employment, or to White Mountain Apache Tribal policies, rules, and/or regulations, and which cannot be resolved through informal discussions with the immediate supervisor, may file a formal, written Grievance Statement within fifteen (15) calendar days after the occurrence of the action in question. The fifteen (15) calendar day limitation may be waived by the Human Resources Director, if through no fault of the employee, he or she was unaware of the action before the time limit expired. *Note: Probationary employees have the right of grievance and appeal only based on claims of some form of discrimination.*
2. The formal Grievance Statement shall contain a clear and concise statement of the matter being grieved. The Grievance Statement shall clearly state the relief sought by the employee. Each individual grievance filed shall be processed in accordance with **SECTION X. B.**, herein. Only the grievance presented originally will be considered on appeal through the procedure. To insure this, a copy of the original grievance shall be filed with the Human Resources Office. The Human Resources Office shall maintain the official grievance record.
3. Failure to proceed to a higher step within the time period specified below will terminate the grievance. Failure by management to render a decision within the allotted time at any step constitutes denial and the employee may then proceed to the next step.
4. Multiple grievances may be consolidated and processed together as a single issue if all grievances raise the same complaint and seek the same relief. All grievants must consent in writing to the joining of multiple grievances.
5. Every effort shall be made by the parties to resolve the grievance at the lowest possible level.
6. Where possible, the Human Resources Office shall attempt to resolve any dispute informally according to the Apache way.
7. All employees must serve on a grievance committee when noticed by the Human Resources Office, unless excused by the Chairman of the Tribe. The grievance committee shall consist of five (5) members (three (3) of whom shall constitute a quorum to conduct business by majority vote), who shall be full-time, permanent employees of the Tribe. These employees shall be fair and impartial in the consideration of any and all matters submitted for the committee's review and recommendation(s). Any potential conflicts that may exist between members of the noticed Committee and the grievant or other party(s), shall be resolved by the Human Resources Director.
8. All parties to a grievance shall refrain from discussing the grievance outside of the formal grievance steps, and any documents or oral communications regarding the issue shall be considered confidential.

B. Procedure and Steps

1. Upon the filing of a formal, written Grievance Statement, it shall be processed in the following manner, except that any time limit(s) may be waived or extended by written mutual assent of both parties or at the discretion of the Human Resources Director. A grievance must be processed in sequence at the lower steps before it can be appealed to the next higher step.
 - a. **Step 1. Appeal to Supervisor.** The permanent employee or a permanent employee that has been terminated for cause shall present a written Grievance Statement to the employee's immediate supervisor, with a copy to the Human Resources Director, unless the cause of the grievance occurs at a higher level, in which case it shall commence at that level. The grievance shall state the complaint and the action requested as required in paragraph A.2. of this section. A written decision shall be given to the employee, by the immediate supervisor, with a copy sent to the Human Resources Director within ten (10) calendar days of the receipt of the grievance and a copy to the Department Head. If the grievance remains unresolved, the employee may proceed to Step 2.
 - b. **Step 2. Appeal to Department Head.** Within seven (7) calendar days after the decision in Step 1 is due, the employee shall present the written grievance and such decision to the appropriate Department head with a copy to the Human Resources Director. The Department Head shall schedule a conference with the party(s) within ten (10) calendar days after the receipt of the grievance. The Department Head shall render a written decision to the employee with a copy to the Human Resources Director within seven (7) calendar days after conclusion of the conference. If the grievance remains unresolved, the employee may proceed to Step 3.
 - c. **Step 3. Appeal to Grievance Committee.** Within seven (7) calendar days after the decision in Step 2 is due, the employee shall present the grievance in writing to the Human Resources Director who shall appoint a grievance committee. The Human Resources Director will transmit the Committee's decision in writing to the Chairman within five (5) calendar days after the decision is rendered. The Grievance Committee must limit its inquiry and decision making to the policies and procedures approved by the Tribal Council and to the facts of the case to be decided.
 - d. **Step 4. Chairman Review of Grievance Committee Decision.** The Chairman shall, within twenty (20) calendar days of receipt of the recommendation, render a binding, written decision. The Chairman may conduct a hearing or interview the parties prior to rendering a decision. The decision of the Chairman is final.
 - e. **Step 5. Discrimination Appeal to Tribal Council.** In cases of alleged Discrimination *only*, within ten (10) working days of receipt of the written decision of the Chairman, the employee shall deliver the written Statement of Grievance together with the Committee's decision and the Chairman's decision to the Secretary of the Tribal Council. No appeal may be calendared by the Secretary without written documentation and the Chairman's decision. The Secretary shall place the appeal on the agenda for the

next, regularly scheduled Tribal Council meeting, and the Council may choose to decide the appeal at that meeting, hear the matter and schedule it for decision at the next meeting (with or without an appearance by the employee), or schedule the matter for a special meeting within thirty days. The decision of the Tribal Council shall be final.

2. In conducting a Grievance Committee hearing, the proceedings shall be informal, and the technical rules of evidence shall not apply. However, no employee shall have any disciplinary action against him/her upheld solely on the basis of hearsay testimony. It shall be assumed that the action complained of was taken in good faith unless proved otherwise. The grievant may be represented by legal counsel or person of their choice at the hearing. Similarly, the Tribe or enterprise may be represented by an attorney.
3. All parties to a hearing shall have the right to request the issuance of subpoenas to compel appearance of witnesses and/or compel production of relevant documents. Any subpoena shall be issued as a subpoena of the Tribal Council. The Human Resources Director or designee shall review all subpoenas for relevance. Subpoenaed witnesses and documents must have direct relevance or they will not be issued. The party requesting the issuance of a subpoena shall be responsible for service in accordance with the Tribe's law, for the mileage and fees of the witnesses, and proving the direct relevance of the witnesses and documents. All other additional expenses incurred by the grievant will be the responsibility of the grievant.
4. The Human Resources Officer shall develop and utilize additional rules and procedures appropriate to administer the grievance process and copies of these procedures will be presented to all parties involved in the grievance process.

C. Coercion

1. If an employee is denied the opportunity to present a grievance as prescribed by this article, or if the employee is threatened or subjected to duress when presenting the grievance, the employee may so notify the Human Resources Director in writing. The Human Resources Director shall authorize an investigation of such complaints and, based on findings, may present charges against any person who was derelict or discriminatory in considering the grievance.

D. Restitution for Grant Funded Employees

1. Any employee who has successfully grieved and whose position is funded by a grant that prohibits administrative leave with pay, and for whom it is determined that back pay should be made, payment for back pay shall be made from tribal funds.

SECTION XI. DEFINITIONS

A. General

The following definitions shall apply wherever the following terms are used in the Manual and in the day to day execution of the Human Resources function of the White Mountain Apache Tribe, unless otherwise specified:

ABILITY: The present power to perform a function, physical or mental.

ACCIDENT: Any unforeseen or unplanned incident or event usually resulting in damage or injury.

ACCOUNTABILITY: Having to answer to someone for performance or complying with a recognized standard.

ALLOCATION: The assignment of a position to a class on the basis of the kind, difficulty and responsibility of work of the position, without regard to the incumbent.

ANNIVERSARY DATE: Date of hire or rehire without a break in service with the Tribe (excluding districts).

APPLICATION: A written form developed by the Human Resources Office requesting information relating to the particular job or position applied for by a candidate or applicant.

APPOINT: To name, hire, select or ordain as by decree, or command a person to a position, job, board, committee, etc.

APPOINTEE: A person appointed to a position, job or office.

APPOINTIVE: Filled by appointment.

APPOINTMENT: (1) The act of appointing, hiring or placing a person into a position or office. (2) A position held by someone appointed. **Note:** This would also include membership to a board or committee.

APPRAISAL PROCESS: Periodic evaluations of an employee's on-the-job performance as well as his or he skill level, attitude, and potential.

ATTITUDE: Manner of speaking, working and functioning within the work environment in a positive way, channeling complaints and negative comments into the appropriate mechanism.

AT-WILL: (See EMPLOYMENT AT WILL)

AUTHORITY: A person's right to give orders and instructions to others and to use organizational resources.

BREAK-IN SERVICE: Not employed by any department of the Tribe for at least thirty (30) days or more used to define the last Anniversary Date and deducted from total time in calculation of service for service awards.

CAREER: A chosen field of work or employment spanning many years with one or more organization(s) usually involving educational or skill preparation by the individual.

CAREER DEVELOPMENT: Experiences, training, education and personal improvements undertaken to achieve a career plan.

CAREER EMPLOYEE: (See PERMANENT EMPLOYEE)

CAREER PATH: A route chosen by any employer or employee through a series of related horizontal and vertical moves to jobs of ever-increasing responsibilities.

CERTIFICATION: An action of the Human Resources Office in supplying a Department Head with the names of eligible applicants for appointment to a position.

CHAIN OF COMMAND: The line of authority extending from the Department Head to a supervisor to an employee.

CHAIRMAN: The duly elected Chairman of the White Mountain Apache Tribe.

CLASS: (Class of positions) - A group of positions with duties and responsibilities sufficiently alike to warrant common treatment in all personnel processes, selection, examination, training, compensation, transfer and sufficiently different from positions in other classes to justify different treatment in one or more of these processes. A class can consist of only one position when no other position of the same class exists.

CLASS SPECIFICATION: (See JOB DESCRIPTION)

CLASS TITLE: The title assigned to any particular class and used for reference to that position or group of positions.

CLASSIFICATION PLAN: The arrangement of class titles by occupational services, group and series with appropriate class code numbers and assigned salary ranges.

COMMUNICATION: The transmission of information and common understanding from one person or group to another through the use of common language and/or symbols.

COMPENSATION: Pay and other benefits such as leave and paid insurance for services rendered.

COMPENSATORY TIME: The hours absent from duty granted with pay to compensate for services rendered over and above a forty hour work week; granted at one hour of compensatory time for one hour worked.

COMPLAINT: Any expression of dissatisfaction with working conditions or on-the-job relationships that is brought to the attention of the immediate supervisor by the employee.

CONFIRMABLE APPOINTMENT: An appointment to the position of Department Head made by the Chairman, pursuant to the Tribe's Constitution, statute or ordinance, that requires confirmation by the Tribal Council. Confirmed individuals shall serve for the time period prescribed and/or at the pleasure of the Chairman of the Tribe or Tribal Council.

COUNCIL (Legislative): The governing body of the White Mountain Apache Tribe that represents the four (4) districts and various communities therein.

DELEGATION: The act of passing formal or positional authority by a manager to another subordinate employee.

DEMOTION: The movement of an employee from a position in one class to a position in another class with a lower maximum pay rate.

DEPARTMENT HEAD: The appointed official or director responsible for the administration of a department, program, or other major organizational unit of the Tribe, or a director responsible for a group of departments, programs, or organizational units; person authorized to make appointments and responsible for all personnel management matters within the department, in accordance with the Tribe's Personnel Policies.

DISCHARGE OR DISMISSAL: The termination of employment for cause.

DISCIPLINARY ACTION: An oral warning, written reprimand, suspension, demotion, discharge or dismissal issued as described herein.

DISCIPLINE: The management duty that involves educating subordinates in compliance with rules of conduct and appropriate performance, dispensing appropriate corrective action.

DISCRIMINATION: (1) To act on the basis of prejudice; (2) Any action taken against a person based on non-merit consideration, such as family ties, age, marital status, race, color, sex, national origin, disability, religious creed, etc.

DRUG AND ALCOHOL FREE WORKPLACE: Pursuant to Resolution No. 02-91-43, all tribal departments, enterprises and programs shall have a drug and alcohol free workplace, which means the absolute prohibition of the unlawful manufacture, distribution, sale, possession, use or being under the influence of illegal narcotics or alcohol in the workplace.

DUE PROCESS: The established rules and procedures for disciplinary action, including the provision that permanent employees have an opportunity to grieve certain actions.

EFFECTIVE DATE: The date that any employment action occurs, i.e. hire, promotion, demotion, etc.

ELECTED OFFICIAL: A person elected by a majority of the popular vote of the registered voters of White Mountain Apache Tribe.

ELIGIBILITY DATE: The date on which the prescribed requirements are met.

ELIGIBLE: A person whose name is on an active promotional, original appointment or re-employment list and who may, under these policies, be certified for appointment to a job or position.

EMERGENCY APPOINTMENT: An appointment made by the Chairman for a period not to exceed ninety (90) days.

EMPLOY: To hire or engage the services, work or labor of a person.

EMPLOYEE: (1) Someone who works for another in return for a wage or salary. (2) A person occupying a job or position in the Tribe including a person who is on an authorized leave of absence.

EMPLOYEE ASSISTANCE PROGRAM (EAP): A program to help employees overcome personal problems through direct assistance, counseling, and/or outside referral to appropriate treatment providers.

EMPLOYER: One who employs a person for wages or salary.

EMPLOYMENT AT-WILL: The common law doctrine that holds that employment will last until either employer or employee decides to terminate it, with or without cause.

EMPLOYMENT DATE: The date on which an employee commences performance of duties and is placed on the payroll.

EMPLOYMENT TESTS: Instruments or processes used to assess the probable match between the applicant's job skills and the job requirements.

EMPOWER: To provide person(s) with the information, knowledge, skills and authority to perform their job duties with little direct supervision.

EQUAL EMPLOYMENT OPPORTUNITY: Providing employees with a fair chance to succeed without discrimination based on factors unrelated to job performance such as age, race, sex, disability, religion or national origin.

EXECUTIVE APPOINTMENT: An appointment made by the Tribal Council Chairman of the White Mountain Apache Tribe, subject to confirmation by the Tribal Council. Executive appointments shall include department directors, members of boards, commissions, emergency appointments and others deemed necessary.

EXECUTIVE ORDERS: Written directives issued by the Chairman of the Tribe that apply to the government.

EXEMPT POSITION: Exempt from overtime pay requirements.

FAMILY: For the purpose of using bereavement leave, the concept of family includes the employee's mother, father, spouse, children, grandparents, siblings, grandchildren or any in-laws or stepchildren. More distant relatives or significant person in the employee's life are also included if they are living as a member of the employee's immediate household.

FITNESS: Suitable, appropriate or conformable to the requirements of a job as set forth in the job description.

FLEXTIME: A work scheduling mechanism which abolishes rigid starting and ending times, usually within a range of hours for each day's work. Employees are allowed to begin and end the workday at their discretion when approved by their Department Head.

FULL-TIME EMPLOYEE: An employee whose regular service work assignment is equal to or greater than 60 hours or more per pay period or 1560 hours or more per year not exceeding 2080 hours per year.

FULL-TIME EQUIVALENT POSITION: A budgeted amount based upon 2080 hours per budget year.

FUNCTIONAL AUTHORITY: The authority that a director, manager or supervisor of a department has to make decisions and issue orders that implement the administrative decisions made.

GOAL: The objective, target, or end result expected from the execution of programs, tasks and activities.

GOOD STANDING: An employee who, through an evaluation process, demonstrates a strong performance and ability to undertake the requirements of the job description.

GRIEVANCE: A real or imaginary wrong regarded as cause for complaint or resentment that is related to working conditions and relationships or pertaining to any term, condition or privilege of employment, or the Tribe's Personnel Policies, rules and regulations.

HEALTH: The general physical, mental, and emotional condition of a person.

HIRE: To obtain the work or services of a person in exchange for compensation.

HUMAN RESOURCES OFFICE: The organizational unit charged with administering matters relating to employment within the Tribe.

IMMEDIATE FAMILY: For purposes of identifying nepotism, or for family and medical leave and contribution/donation of leave provisions of these policies, the concept of immediate shall be according to Apache cultural standards and includes the employee's mother, father, spouse, children, or any in-laws or stepchildren.

INCUMBENT: The current occupant of a job, position or office, in the Tribe.

INDIAN: A member of a federally recognized Indian Tribe, but not an enrolled member of the White Mountain Apache Tribe.

INDIAN PREFERENCE: Indian Preference means the following priority of employment preference: (1) an enrolled member of the Tribe; (2) an Indian spouse of an enrolled member of the Tribe; (3) other Indian. WMAT Labor Code, Ordinance No. 203, enacted December 20, 1995.

INFORMATION: Any facts, figures, or data that are in a form or format that makes them usable to a person who possesses them.

INTERDEPARTMENTAL: From one department to another department or between departments, (i.e. employee reassignment).

INTERVIEW: A two-way conversation under the control of one of the parties.

INTRADEPARTMENTAL: Within one department, (i.e. employee reassignment).

JOB ABANDONMENT: Failure by an employee to report to work for three (3) consecutive days without appropriate notice or authorization.

JOB ANALYSIS: Systematic collection, evaluation, and organization of information about jobs or positions and their duties and requirements.

JOB CODES: Numbers, letters, or both to identify job classes and their titles.

JOB DESCRIPTION: A formal listing of the duties, responsibilities and knowledge, skills and abilities that make up a position in the organization of the Tribe's government.

JOB ENLARGEMENT: Increasing the number of tasks or the quantity of output required in a job or position, (i.e. Accretion of duties).

JOB FAMILIES: Groups of different jobs that require similar skills.

JOB RELATED: Those duties that are essential to performance and the necessary knowledge, skills, abilities, and characteristics pertinent for the successful performance of a job.

JOB ROTATION: Movement of people to different jobs, usually for a temporary period, in order to inform, train, or stimulate cooperation and understanding among them.

JOB SPECIFICATION: (See JOB DESCRIPTION)

KNOWLEDGE: An understanding of facts or principles relating to a particular subject or subject area.

LABOR MARKET: The area in which the employer recruits.

LABOR MARKET ANALYSIS: The study of the employee labor market to evaluate the present or future availability of workers and skills and appropriate salary classification.

LAYOFF: The separation of an employee because of lack of work or removal of funds.

LEADERSHIP: The ability to get work done with and through others while winning their respect, confidence, loyalty, and willing cooperation.

LEAVE: An authorized absence from regularly scheduled work hours which has been properly approved.

LINE AUTHORITY: A department head's, manager's or supervisor's right to give lawful direct orders to subordinates and appraise, reward, and discipline those who receive those orders; similar to the concept of chain-of-command.

LOST-TIME ACCIDENTS: Job-related accidents that cause the employee to lose time from his or her job.

MANAGEMENT: The process of planning, organizing, directing, and controlling employee, material, and information resources for the purposes of setting and achieving stated goals. (i.e. a team of people making up an organization's hierarchy)

MANAGEMENT SKILLS: Categories of capabilities needed by all managers at every level in an organization.

MANAGER: A member of the Tribe who is authorized to make decisions regarding program execution and employees.

MERIT: A qualification for selection for or promotion to a job based upon a system of evaluations, appraisals and assessments that may include legitimate objective and subjective factors.

MINORITY: A member of the following groups: Hispanic, Native American, African American, Asian or Pacific Islander, and Alaskan Native.

NEPOTISM: An employee or member of any authority, committee, department, or enterprise who is responsible for recommending or selecting an applicant, or otherwise involved in a personnel action concerning an employee, who is in the immediate family of such applicant or employee.

NON-CONFIRMABLE APPOINTMENT: An appointment not requiring the approval or confirmation of White Mountain Apache Tribal Council, and made by a person having the authority to make such appointment.

NON-EXEMPT POSITION: A position that is not exempt from overtime compensation requirements.

OCCASIONAL APPOINTMENT: An appointment to serve on a full-time or part-time basis intermittently through out the year not to exceed 800 hours in a twelve (12) month period; this appointment does not include benefits, but may be extended from year to year.

OCCASIONAL POSITION: An authorized job which is designed to supplement permanent employees on an as needed basis.

OCCUPATIONAL GROUP: A major division of an occupational service, composed of a series of classes involving the same kind of work.

OPEN COMPETITIVE EXAMINATION: An examination open to any person who meets and complies with prescribed requirements for application.

ORIENTATION: The planning and execution of a program to introduce a new employee to the White Mountain Apache Tribe including its history, policies, procedures, rules and regulations; also contains information related to specific departments or programs.

ORIGINAL ELIGIBLE LIST: A list of persons who have met all the requirements of an open examination for a class of position, with names arranged in the order of their score on the examination.

OVERTIME: Time an employee is directed to and authorized to work in excess of the normal scheduled work period. A pay period is usually eighty (80) hours.

OVERTIME COMPENSATION: Money paid or time off at time and one-half to compensate non-exempt employees for hours they are required to work in excess of their normal scheduled two (2) week period of eighty (80) hours.

PART-TIME EMPLOYEE: An employee who is regularly scheduled to work less than 60 hours per pay period, or a maximum of 1560 hours per year.

PAY: The act or fact of being paid a salary or wage by an employer.

PAY ADJUSTMENT: An adjustment in pay which results when the pay plan is amended.

PAY PERIOD: The designated period of time in which work is performed or services are rendered and as a result, pay is due.

PAY PLAN: (See CLASSIFICATION PLAN)

PEER: A person on the same level of authority and status as another.

PERFORMANCE APPRAISAL: The process by which the Tribe evaluates employee performance.

PERFORMANCE MEASURES: The ratings used to evaluate employee performance.

PERFORMANCE STANDARDS: The benchmarks against which performance is measured.

PERMANENT EMPLOYEE: An employee who has successfully fulfilled his/her probationary period requirements in accordance with these Personnel Policies.

PERMANENT POSITION: An authorized job based upon an approved budget for the length of the budget cycle position as described in these selection procedures.

PERSONNEL ACTION: Includes, but is not limited to, employment, grievance, grievance appeals, promotion, termination or training.

PERSONNEL POLICIES MANUAL: This official manual which contains the Personnel Policies and Procedures for the personnel system of the White Mountain Apache Tribe.

POLICY: A broad guideline issued by department management that amounts to an official or prescribed plan or course of action for the department from which to direct a subordinate, manager or supervisor in problem solving, performing duties and dealing with recurring situations.

POLICY EXEMPT POSITION: A job, position or office that is exempt from the requirements of these Personnel Policies. The positions of Chairman, Vice-Chairman and Tribal Council member are the only exempt positions in the Tribe.

POSITION: A group of current duties and responsibilities assigned or delegated by the appointing authority to one person.

PREVAILING WAGE RATES: Prevailing wage rates are the rates most commonly paid for a given job in a specific geographical area and determined by a wage and salary survey.

PROBATION: A specified time period during which the employee's work performance is evaluated to determine fitness for permanent status.

PROBATIONARY EMPLOYEE: An employee who has been hired or appointed from an eligible list, but who has not yet completed the probationary period; has no appeal right if dismissed except in a case of alleged discrimination.

PROCEDURE: A general routine or method for executing day-to-day operations or implementing a policy.

PROFESSIONAL POSITION: A position requiring the possession of a related body of knowledge and abilities, generally obtained through the completion of a formal educational curriculum, certified program of study, or equivalent; includes the ability to exercise independent judgment on the job and requires a probationary period of one year to demonstrate these capabilities on a full range of assignments.

PROGRESSIVE DISCIPLINE: A system using warnings about what is or is not acceptable job performance or conduct; specific job-related rules; disciplinary actions that fit the offense; disciplinary action that grow in severity as misconduct or unsatisfactory performance persists; and prompt, consistent enforcement.

PROMOTION: The upward movement of an employee from a position of one class to a position of another class with a higher maximum pay rate, higher responsibility, or organizational level.

PROMOTIONAL EXAMINATION: Limited to permanent employees in lower classes that meet the qualifications set forth in the job announcement.

PROMOTIONAL LIST: A list prepared by the Human Resources Office of permanent employees who have met the requirements for the announced position and are arranged in order of qualifications.

QUALIFICATIONS: The knowledge, skills and abilities needed to meet the requirements of the job or position.

QUALIFIED PERSONS WITH A DISABILITY: Those employees who are physically and/or mentally impaired and who, with or without any accommodation, are able to fully perform the requirements of any specific job, regardless of these challenges.

QUALITY: The totality of features and characteristics of a product or service (or process or project) that bear on its ability to satisfy stated or implied goals.

REALLOCATION OR RECLASSIFICATION: The assignment of a position to a class different from the one to which it was previously assigned.

REASSIGNMENT: The movement of an employee from one position to another of the same class or of another class having the same maximum pay rate, involving the performance of similar duties, and requiring essentially the same basic qualifications.

RE-EMPLOYMENT LIST: A list for a class of positions of laid-off permanent employees with satisfactory employment records who were separated from the Tribe's service through no fault of their own, with names arranged in the priority order of years of continuous service.

REHIRE: The act of employing a former permanent employee that worked for any branch of the Tribe within the previous six (6) years.

REPRIMAND: A written warning to an employee citing a deficiency that the supervisor believes exists in the employee's work performance or conduct and noting what improvement is required. This document and other references to the deficiency will be kept in the employee's personnel file.

RESIGNATION: Voluntarily giving up one's position.

RESPONSIBILITY: The obligation each employee has to execute his or her duties to the best of his or her abilities.

RÉSUMÉ: An employment-related document submitted by the applicant and containing vital data such as the person's name, address, employment goals, and work-related education and experience.

RULE: A regulation governing employee job performance and conduct.

SAFETY: Efforts taken by employees and management to protect employees and the public from accidents and injuries.

SALARIED: Employees who are paid an annual sum and who are expected to perform job tasks regardless of the time required for performance. (i.e. Elected Positions and/or Policy Exempt Positions)

SALARY: A periodic fixed payment for services for a specific period, for officials or professionals as distinguished from hourly, such as manual or menial labors, artisans, workers, employees, etc., who receive a fixed sum by the hour, day, month or for a certain amount of work performed.

SALARY RANGE SCHEDULE: (See WAGE/SALARY SCHEDULE)

SEASONAL APPOINTMENT: An appointment to a temporary position for a specific period and not to exceed four (4) months duration on a full-time or part-time basis and whose appointment may be terminated at any time without notice. (i.e. lifeguard for the summer)

SEASONAL POSITION: An authorized job based upon an approved budget which is for a term not to exceed four (4) months or 950 hours, usually corresponding to a season such as a school year or summer months.

SELECTION FACTORS: The requirements needed to qualify for a particular job position.

SENIORITY: Seniority means the length of a worker's employment in relation to other employees.

SEPARATION: The termination of employment due to layoff, resignation, job abandonment, retirement, dismissal, or death.

SERIES: A division of an occupational group comprised of classes similar in kind of work, but differing in level of difficulty and responsibility.

SERVICE: Employment as a public servant with the White Mountain Apache Tribe.

SEXUAL HARASSMENT: Unwelcome sexual advances, requests for sexual favors, and/or other physical and/or verbal conduct of a sexual nature, which the recipient considers to be offensive.

SKILL: The ability to perform particular actions with ease and precision.

STANDARD: A measurement against which performance is evaluated.

SUPERVISION: The monitoring and overseeing of people and processes.

SUPERVISOR: A manager directly responsible for the welfare, conduct, and performance of non-management employees (workers).

SUSPENSION: An involuntary absence, without pay or accrual of leave or other benefits, imposed on an employee as disciplinary action (or pending final outcome of appeal).

TEMPORARY APPOINTMENT: An employee who has received an appointment for a specifically limited period not to exceed four (4) months on a full-time or part-time basis, and whose appointment may be terminated at any time without notice.

TEMPORARY POSITION: A job of short duration based upon an authorized budgeted position which can be filled by the Human Resources Office according to appropriate employment practices with or without the establishment of an eligibility list.

TERMINATION: End of employment for any reason.

TRAINING: The activity focused on improving employee performance in present jobs by imparting knowledge and skills.

TRANSFER: Movement of an employee from one position to another within the same salary range, intradepartmental or interdepartmental, resulting in a change of job class. However, a transfer to a lower position and pay grade within the salary range does not entitle the employee to maintain the higher pay grade associated with the prior position.

TRIBAL MEMBER: Someone who is an enrolled member of the White Mountain Apache Tribe.

TRIBE: The White Mountain Apache Tribe; a sovereign, federally recognized tribal government.

VACANCY: A duly created position which is not filled with an incumbent and for which funds have been appropriated.

VETERAN: A veteran is an honorably discharged or retired member of the U.S. Armed Services, which includes the Air Force, Marine Corps, Army, Navy, or National Guard.

WAGE: Payment for services rendered in the amount of a fixed sum by the hour, day or month or year.

WAGE/SALARY RANGE: The minimum through maximum rates of pay for a specific job class as contained in the wage/salary schedule also including interim steps at 2.5% intervals.

WAGE/SALARY SCHEDULE: The table which lists numbered wage/salary ranges which is used to assign pay rates to individual job classes within the classification plan. (For example in the 1998 Compensation Plan: Office Support Worker is assigned to Range 123, minimum of \$16,389.58, maximum of \$18,428.96)

WAGE/SALARY SURVEY: A study conducted periodically to ascertain what other governmental and private sector employers in a specified labor market are paying for jobs comparable to the Tribe's.

WAGE EARNER: One who works for wages.

WORK ETHIC: People's attitudes about the importance of working, the kind of work they choose or are required to do, and the quality of their efforts while performing work.

WORKER: An employee receiving wages.

WORKERS' COMPENSATION: Insurance designed to compensate employees for lost time and medical expenses due to illnesses and injuries that arise out of and in the course of their employment.

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