FORT PECK TRIBES

PERSONNEL POLICIES AND PROCEDURES

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SECTION 1: GENERAL PROVISIONS

A. Introduction
The Fort Peck Tribal Government Personnel Policies and Procedures have been developed to provide management and employees with standardized general guidance for personnel matters. These policies are designed to provide guidelines for employees to generally understand the rules and benefits of employment. These guidelines are not a promise of specific treatment in any specific circumstance and are not any form of contract.

1. It is the responsibility of each employee to follow the guidelines and standards of conduct contained in these policies. Employees should read, understand, and comply with all provisions of the handbook.

2. Nothing in these policies shall be construed to interfere with a tribal member’s rights to communicate with the Executive Board in the tribal member’s capacity as a tribal citizen.

3. These policies supersede all prior personnel policies, written or unwritten, relating to FPT employment.

B. Applicability of Policies
Unless stated otherwise, these policies govern all personnel matters for regular, temporary and introductory period government employees of the Fort Peck Tribes.

These Personnel Policies and Procedures shall apply to all tribal employees, except:

- Persons expressly exempted from these policies in an Executive Board Resolution.
  Persons with an employment contract unless the employee’s contract provides otherwise.

- Elected officials of the Tribe (including the Chairman, Vice-Chairman, Sergeant-at-Arms, and all members of the Tribal Executive Board) and the Secretary-Accountant.

- The Board of Directors, members and/or employees of tribal corporations.

- Members of the Election Commission; Tribal Court Judges and Justices.

C. Revisions
The FPT Executive Board reserves the right to revise, supplement, and/or rescind any policies or portion of the handbook as it deems appropriate. Employees with any questions regarding the content of the employee handbook are advised to ask his or her supervisor or Human Resources for clarification.

Where necessary, efforts shall be made to communicate changes to employees as soon as practicable. Human Resources shall retain copies of all revisions while these policies are in effect. Employees are responsible for ensuring they are following the most recent version of applicable policies.

D. No Waiver of Sovereign Immunity
Nothing in these policies shall be interpreted or construed as a waiver of to the Fort Peck Tribes’ sovereign immunity.

E. Applicable Laws
The Assiniboine and Sioux Tribes of the Fort Peck Reservation will comply with the Fort Peck Code of Comprehensive Justice in all employment matters.

F. Sovereign Immunity
The Fort Peck Tribes are a separate, sovereign nation with sovereign status Nothing in this employee handbook constitutes, or should be interpreted as constituting, a waiver of the FPT Tribes sovereign immunity.
SECTION 2: GENERAL ADMINISTRATION – RESPONSIBILITY

A. Roles and Responsibilities

1. Role of the Executive Board

- The governing body of the Tribes shall be known as the Tribal Executive Board, subject to the powers of the General Council

2. Role of the Chairman and Tribal Human Resources Director:

- The role of the Tribal Chairman is defined in the Constitution and Bylaws of the Assiniboine and Sioux Tribes of the Fort Peck Reservation shall exercise “general and active management of the affairs of the Tribes except that he shall not act on matters binding the Tribal Executive Board until that body had deliberated and decided its course of action” and shall exercise “general supervision of all other tribal officers and employees and see that their respective duties are performed.”

- By adoption of these Policies, the Tribal Executive Board authorizes the Tribal Chairman and the Tribal Human Resources Director to implement these polices with a retention of supervisory power as specifically stated in the various sections of the Constitution and this policy.

3. Role of the Employee

- To observe all general guidelines contained in these policies.

- To fulfill the obligations of their position as assigned including reassignment for reasons such as workload, business service needs or the efficient administration of personnel resources.

- To familiarize themselves with the provisions of this Personnel Policies and Procedures manual, and any revisions and amendments, and to adhere to them.
SECTION 3: EMPLOYMENT POLICIES

A. Purpose
The employment section of this handbook defines the relationship between the Tribal Government and the employee. This section describes FPT’s hiring practices.

B. Definition of Terms

*Tribal Employee:* A Tribal employee is an individual who is employed by the Fort Peck Tribes, paid directly through the Tribes’ Central Accounting office.

*Tribal Member Veterans:* Enrolled members of the Assiniboine and Sioux Tribes whom served in active duty in the United States Armed Forces for a period of more than 180 consecutive days, unless separated for a service-connected condition or for a humanitarian reason, or for declaration of cease of war or conflict, under Honorable Conditions. Official documents issued by the Uniformed Service, Veteran’s Affairs, General Services Administrative or the National Personnel Records Center (Military Personnel Branch) will be required to establish a Veteran’s preference eligibility.

C. Personnel Management Principles
These Personnel Policies and Procedures are based upon the following principles:

1. Recruiting, selecting and promoting employees based on their knowledge, abilities, skills, training and experience.

2. Providing fair compensation for work performed.

3. Retention of employees based upon high quality job performance, encouraging employees as appropriate to correct inadequate performance, and dismissal of employees whose performance is not satisfactory.

4. Equitable treatment of applicants for employment and employees in all phases of personnel administration without regard to political affiliation, race, color, national origin, age, sex, creed, and with proper regard for Tribal/Veteran’s preference.

D. Tribal Employment Policy
1. It is the official employment policy of the Assiniboine and Sioux Tribes to fill all new and vacant positions with qualified and experienced enrolled members of the Fort Peck Tribes.

E. FPT Tribal and Veterans Preference
1. Tribal Preference
   a. FPT has established a preference policy which may be updated by the Tribal Executive Board from time to time. Employees are expected to be familiar with these
provisions.

b. Increased employment opportunities for Tribal members is one of the primary goals of FPT. The Tribal Preference Policy is designed around this goal. In addition to hiring the best qualified candidate, FPT wants to ensure Tribal Members and Tribal Member Veterans (and certain other related persons and Indians) are hired when they are one of the best qualified candidates.

c. Preference in employment shall be given in the following order, consistent with the requirements set out in this policy:

   (1) First to applicants or employees who are enrolled Fort Peck Tribal Member Veterans;

   (2) Second to applicants or employees who are Assiniboine and Sioux Tribal Members;

   (3) Third to applicants or employees who are Associate Member of the Fort Peck Tribes;

   (4) Fourth to applicants or employees who are enrolled members of other federally recognized Indian Tribes;

   (5) Fifth to spouses of members of the Fort Peck Tribes;

   (6) Last to all other applicants or employees.

2. Veterans Preference Points
Enrolled Assiniboine and Sioux Tribal member Veterans must meet the minimum qualifications set forth in the job description, and shall receive preference points as follows:

   a. A 10-point preference shall be given to a Assiniboine and Sioux Tribal Member Veteran who has been rated disabled for service connected conditions by Veteran’s Administration, or recipient of the Purple Heart who is equally qualified with other applicants for the same position; and

   b. 5 points preference for all other Veterans who are equally qualified with other applicants for the same position.

Failure to adhere to this preference policy shall be grounds for disciplinary action up to and including termination.

SECTION 4: RECRUITMENT AND SELECTION

A. Definition of Terms
   Applicant: A person who makes a formal application for a job with FPT.

   Employee: A person hired by FPT into either a temporary or regular position
Managerial, Professional Positions: Positions that have been identified as requiring direct Tribal Executive Board involvement in the selection process and final selection of the applicant.

Workforce Investment Opportunity Act (WIOA): An employment and training program designed to assist economically disadvantaged individuals.

B. Role of the Office of Human Resource Management
The Office of Human Resource Management shall be responsible for finalization of job announcements, advertisement of job announcements, receive job applications, screen applications to ensure requirements of job announcements are met, and forward the list of qualified candidates to either a Selection Committee or to the Tribal Executive Board.

C. Penalties for Misrepresentation
All applicants are responsible for providing truthful and accurate answers to the questions contained in the application and interviews. A finding by the Human Resource Office of fraudulent information provided by the applicant will result in banning the applicant from making applications for any vacancies for a period of six (6) months from the date of the findings.

D. Vacancies
Whenever a new or vacant position needs to be filled, the appropriate Tribal Governmental Program shall submit a “Request for Personnel” form to the Tribal Office of Human Resource Management. The request form will state the position which is vacant or provide justification for a new position. Also, any special requirements of the position must be indicated on the “Request for Personnel” form so that such requirements may be added to the job announcement form upon approval by the Tribal Office of Human Resource Management, after consultation with the Chief Financial Officer, and approval by the Tribal Executive Board.

E. Workforce Investment Opportunity Act (WIOA)
The Tribes may participate in the federal Workforce Investment Opportunity Act (WIOA) employment and training program which is a contract with the federal government to provide on-the-job training to economically disadvantaged individuals. WIOA trainees will encumber vacant positions and the Tribe has the prerogative to offer the WIOA trainee full-time employment in the encumbered position if such trainee successfully completes the WIOA program and provided the trainee meets minimum qualifications for the position and meets the selection criteria (including a background check).

F. Job Announcements
1. The Office of Human Resource Management shall first post job announcements internally and set a deadline for applications from permanent employees of the Tribes.

2. If one or more permanent employees file an application for the position, the Office of
Human Resource Management shall screen and evaluate applicants and the Tribal Executive Board or Selection Committee shall select an applicant for the position.

3. If no applicants are qualified, the Office of Human Resource Management shall publicly advertise the job announcement for at least two (2) weeks before the closing date for receipt of employment applications.

G. Job Announcement Requirements
Public announcements shall be published in the local newspaper(s), the tribal paper, tribal website and Wolf Point job service. Announcements may also be placed in various news media of general circulation throughout the Fort Peck Reservation and, when appropriate, the State of Montana or on a national basis.

Announcements shall include, but need not be limited to, the following information:

- Announcement number
- Job title
- Department
- Type and duration of appointment
- Salary
- Opening and Closing date

H. Employment
All potential applicants for new or vacant positions must complete the appropriate Tribal Government “Employment Application” form to the Tribal Office of Human Resource Management on or before the closing date specified on the job announcement. The Human Resources Department will review the applications upon submission and inform applicants of receipt of his/her application.

I. Re-advertising
If an insufficient number of qualified applications for a vacant position are received, the advertisement period may be extended by the Tribal Chairman with concurrence of the Tribal Executive Board for management and professional positions.

J. Screening, Evaluation and Selecting Applications
1. After the job closing date, the Tribal Office of Human Resource Management shall screen, evaluate, investigate and verify the information presented in each applicant’s employment application and/or resume.

2. Applicants must provide proof of possession of any license, certificate, degree, enrollment or other required job qualifications at the time of initial application.

3. The Tribal Office of Human Resource Management will forward qualified applicants to the Tribal Executive Board, for Management and Professional positions, or the Selection Committee for final selection.
K. **Determination of Which Candidate is Best Qualified**
   Consistent with the employment preferences set out above, the Tribal Office of Human Resource Management shall consider: the application, interview, references, demonstrated skills, test results, and the knowledge, experience and abilities of the various candidates before forwarding a list of qualified candidates to the TEB or Selection Committee.

L. **Selection Committee**
   The Tribal Office of Human Resource Management, with the approval of the Tribal Chairman, will establish a five-member Selection Committee, with three of such members constituting a quorum, to make selections for positions that are not management or professional positions. Members of the Selection Committee shall include the appropriate Tribal Executive Committee Chairman (to which the program reports) or designee or the Program Director or designees with knowledge and/or familiarity with the position.

M. **Tribal Executive Board’s Authority to Select Management, Professional or Appointed Positions**
   1. The Tribal Executive Board shall have the final authority to select the applicant they consider most qualified for a position.
   
   2. The Tribal Executive Board may fill a position by transfer, promotion, or temporary employment from an eligible list provided by the Tribal Office of Human Resource Management.
   
   3. The Tribal Executive Board delegates authority to the Tribal Chairman to hire temporary employees to existing vacant positions.

N. **Disqualification of Applicants**
   The FPT may disqualify an applicant from employment if:
   
   1. The applicant does not meet the minimum qualifications and/or cannot perform the essential functions of the job with or without reasonable accommodation.
   
   2. The applicant has an unsatisfactory record of employment.
   
   3. The applicant has been convicted of a violent crime, a crime against children within the last ten (10) years or a conviction in any court for theft, embezzlement or fraud. Conviction for some crimes may automatically disqualify applicants for certain jobs, regardless of when the conviction occurred.
   
   4. The applicant has omitted, misrepresented, or misstated information in the interview and/or application process, including but not limited to, the application submitted to FPT.
   
   5. The applicant failed to submit his/her application for employment prior to the closing date in the job announcement.

O. **Applicant Selection**
1. **Formal Job Offer**
   a. The Human Resource Office will make a formal job offer by letter or memorandum signed by the Tribal Chairman to the candidate selected by the Selection Committee or the Chairman notifying him/her of the selection. The notification will be addressed to the successful candidate, state the hourly wage, official starting date, where to report for orientation and any other employment conditions.

   b. The Human Resource office will send notice of the hiring decision to all other applicants who applied for the position. The alternate will be notified in writing of that he/she is an alternate and will be placed in the position if the primary candidate does not complete his/her probationary period or rejects the offer of employment.

**P. New Employee Orientation**

1. New Employee orientation is held by the Tribal Office of Human Resource Management regularly and all new employees shall attend the first employee orientation conducted on or after their hire date. Generally, all new employees attend orientation on their start date. This orientation must, at a minimum, include introductory information on complaint processes, wage and hour benefits and policies, workplace conduct rules, leave benefits and policies, and performance and discipline processes and rules.

2. The hiring supervisor will orient each new employee to the general requirements and conditions related to the employee’s job. Such orientation must, at a minimum, include safety, the workplace rules in these policies and any department policies.

3. It is the employee’s responsibility to ensure the orientation is complete as described in this provision. It is imperative that the employee contact the Tribal Office of Human Resource Management or a supervisor/manager in the proper chain of authority if the employee feels a complete orientation was not provided or if an employee does not understand something in these policies.

**Q. Probationary Period**

1. The probationary period is a period during which FPT trains and observes the employee and evaluates the employee’s performance in order to determine eligibility for Regular Status in the position.

2. Hourly employees will complete a minimum ninety (90) calendar day Probationary Period. Professional, management and supervisory (Director) positions will complete a one (1) year probationary period.

3. Supervisors shall conduct a performance evaluation prior to the end of a probationary period. If the supervisor recommends extension of the probationary period, the supervisor shall conduct a second evaluation prior to the end of the extension and recommend either placement on Regular Status or termination.

4. A probationary employee may be terminated without cause during the probationary period with HR and Tribal Chairman approval. The alternate selected for the position will be offered the position.
SECTION 5: EMPLOYMENT CLASSIFICATION

A. Types of Employment

Temporary Employment: A limited term of employment either not to exceed thirty (30) working days or one season for seasonal work that may be terminated without cause. Temporary employees are not entitled to any type of benefits, other than compensation for designated holidays.

Permanent Full-time and Part-time Employment: Full-time employment in excess of 30 hours per week following successful completion of a probationary period. Part-time employment not to exceed 20 hours per week following successful completion of a probationary period.

Contract Employees: Contract employees are those with an employment contract with FPT that governs the terms and conditions of employment. These policies are only applicable to contract employees as set forth expressly in their contracts.

B. Procedure for Temporary Employment

1. A program Director may request, in writing, a temporary employee, fill a vacant position or perform specific assignment and submit such request to the Office of Human Resource Management. The request shall include a completed application from the designated individual to fill the vacant position, a payroll add/change form, and a request for personnel action form.

2. The Human Resource Management Office shall determine whether the designated individual meets the minimum qualifications listed in position description or requirements for the assignment.

3. If the applicant is rated as qualified, the Human Resources Office will draft a temporary employment notification letter for the Chairman’s signature and forward such letter with all relevant forms for the Chairman’s review and approval.

4. The Chairman may appoint individuals for temporary employment, by a written letter, for specific assignments or to fill existing vacant positions that shall not exceed thirty (30) working days.

5. Successive reappointments beyond the initial 30 days shall be approved by the Tribal Executive Board, by resolution.

6. It is mandatory that permanent positions be advertised prior to the end of the thirty (30) day temporary employment appointment.

7. Temporary employment appointments by the Tribal Executive Board and Chairman shall be made in the following manner:
8. Once all information is completed, the Human Resources Office will process the add/change form and appropriate tax forms and submit the completed forms to the Payroll department. (The HR Director is the responsible party to process the completed information into the Payroll portion of the Central Accounting System)

9: The temporary employee will begin work under the terms and conditions set forth in the temporary employment notification letter.

C. Probationary and/or Temporary Discharge
1. Any employee serving an initial probationary period, or a temporary employee, may be discharged at any time without cause and the decision may not be grieved.
   a. The Human Resources Office will deliver a “Notice of Discharge” letter to the employee and place a copy of such letter in the employee’s personnel file. The Human Resources Department will draft the discharge letter, and the employee’s supervisor/program director will deliver it to the employee.

2. The Notice of Discharge letter must be signed by the Tribal Chairman to be effective and final.

SECTION 6: EMPLOYEE CONDUCT AND ACTIVITIES

A. Employee Conduct Guide
Employees shall observe the following general guidelines for creating a respectful, productive and welcoming workplace. Each employee of the Tribes shall perform all required duties in a manner that will:

1. Maintain loyalty to the Assiniboine and Sioux Tribes.

2. Uphold with integrity, the relation of trust and confidence while serving as an employee.

3. Give ready response to and comply with the directions and instructions of the Program Director/Supervisor in the service of the Tribes.

4. Show courtesy, respect, diligence, and cooperation with fellow employees, the Assiniboine and Sioux people, and the general public.

5. Give full, efficient, and industrious service to promote the economical and effective accomplishment of the Tribes goals and objectives.

6. Protect confidential information and refrain from disclosing any portion thereof, except in the manner and to the extent authorized.
7. Economically use, protect and conserve the Tribes’ property and equipment which is assigned to the employee for which the employee is responsible.

8. Maintain all transactions above reproach, free from any payment, gratuity, or favors from any source which would cast doubt or suspicion upon the employee or the Tribal Administration.

9. Refrain from using one’s official position unethically to advance personal interest or the interests of friends.

B. Limitations on Employee Conduct and Activities

1. All official correspondence relative to the transactions of the Assiniboine and Sioux Tribes shall be disbursed and received at the Tribal Program Offices and not at the personal address of employees.

2. Employees who are indebted to the Assiniboine and Sioux Tribes and fail to pay such obligations or make satisfactory arrangements to pay, may have partial sums of their periodic net salary payments withheld until such indebtedness has been satisfied in full.

3. No employee shall drive a tribally owned or leased vehicle without having in his possession a current, valid Driver’s License and be insurable under FPT’s insurance.

C. Conduct that May Result in Discipline or Termination

Following are actions that may result in discipline or termination.

1. Insubordination or refusal to follow a supervisor’s orders and instructions.

2. Theft, attempted theft or unlawful possession of stolen, lost or misplaced property.

3. Disorderly conduct that includes, but is not limited to using vulgar, profane, obscene or abusive language, fighting or “horseplay” with or threatening any person.

4. Destruction, loss, misuse, misappropriation or damage of any property, funds or assets of FPT, another employee, client or customer, irrespective of its condition or value.

5. Unauthorized sleeping on duty.

6. Possession of a gun, explosives or other weapon in the workplace, on FPT premises that are generally open to the public, or while off-site performing job-related duties, unless possession of such is allowed or required as part of the normal duties of a position.

7. Engaging in conduct that endangers the safety of FPT guests, employees or property.

8. Engaging in any illegal behavior or unprofessional behavior that may discredit FPT.

9. Failure to maintain appropriate personal hygiene and dress.

10. Acting outside the proper chain of command.
11. Signing in or out (including electronic time record entries) for another employee or having another employee do so for someone other than themselves.

12. Failure to report to FPT any incident occurring on FPT premises that results in injury to any person or physical damage to FPT property, or failure to cooperate as requested by Management, when a witness to such an incident.

13. Improper possession or use of any Tribal key, password, access card or other security device including but not limited to loaning, duplicating, altering, or removing from an authorized area any FPT master key or password.

14. Failure to immediately report a missing key, access card or other security device and/or password to a supervisor.

15. Failure to observe established health, safety and/or fire procedures, or endangered the safety of oneself or others.

16. Failure to maintain minimum qualifications for the position occupied, including required licenses and certifications.

17. Failure to obtain timely and proper authorization for overtime or compensatory.


19. Excessive unauthorized absenteeism or tardiness.

20. Unauthorized disclosure of FPT’s confidential information.

D. Conduct Mandating Immediate Termination from Employment:

1. Positive test for Methamphetamine.

2. Physical assault of another person on Tribal property.

3. Possession of a firearm in the workplace without an active concealed weapons permit.

4. Verification of theft or embezzlement from the Fort Peck Tribes while employed by the Fort Peck Tribes.

4. Verification of fraud against the Fort Peck Tribes while employed by the Fort Peck Tribes.

E. Political Activities

1. Any person who is an employee of the Tribes shall not be required to resign his/her position before filing a notice of candidacy for tribal office.

2. Any such person may not campaign for office while on the job and shall continue to perform the duties of his/her job in a timely and efficient manner. Any such person who is elected shall resign or be terminated.

3. Any and all political activities in which FPT employees engage shall be at their own expense and on their own time, except where such activities are expressly part of an employee’s job or such activities are authorized by the Executive Board. For purposes of this policy, “political activity” includes both Tribal and non-Tribal politics.
F. Representation
When employees are authorized to speak on behalf of the Tribes, no employee may declare as policy any statement which is contrary to the policies of the Tribes.

G. Gifts and Gratuities
1. No rewards, favors, gifts or other forms of gratuity, in addition to regular compensation from the Tribes, shall be received by a Tribal employee(s) from any individual, vendor, contractor and/or firm. In the event that an employee receives a gift without the employee’s consent, the employee shall inform the employee’s supervisor.

2. Failure to disclose a possible conflict, receiving an unauthorized gift or failing to return a gift at the instruction of Management may lead to immediate disciplinary action up to and including termination.

H. Nepotism/Favoritism
1. No person shall be hired in a program where their spouse, parent, sibling or child is serving as that person’s Program Director/Supervisor.

2. No employee may make, participate in, or attempt to influence employment or other business decisions involving a relative or pressure or cause others to do so.

I. Solicitation and Distribution of Materials
1. Employees – employees are prohibited from distributing any form of literature or other materials that are not work-related during working time or in workplaces. Employees are also prohibited from soliciting for any purpose during their own or another employee’s working time.

2. “Working time” is defined as the time during which either the soliciting employees or the employees who are the object of the solicitation are expected to be engaged in their assigned duties. Employees are permitted to engage in reasonable forms of solicitation during non-working time, such as before or after work or during meal periods.

J. Workplace Safety
Each Program Director or supervisor will instruct each employee regarding specific safety measures connected with a particular job or area. Failure to follow safety rules can result in disciplinary action up to and including termination.

K. Required Licenses and Insurability
1. For certain job responsibilities, employees will be required to be insured and/or possess certain licenses (or certificates). Such requirements will generally be incorporated in job descriptions and considered in the hiring process. Un-insurability or failure to possess the necessary license could result in discipline, up to and including termination, for current employees.

2. If training is required to maintain such credentials, it shall be the employee’s
responsibility to obtain such training. FPT may reimburse the employee for the cost of such training or licensing if the employee obtained the appropriate written prior approval.

L. Confidential and Proprietary Information
1. Confidential Information includes all information which an employee obtained, developed or had access to during the course of the employee’s employment which the employee knows or should know has not been designated for release to third parties, the general tribal community, or the public including personal information about employees or personnel actions, financial transactions, legal affairs, governmental operations, policy actions, or allegations of sexual harassment are to be treated by employees as Confidential Information.

2. Except to the extent provided herein, employees may not, unless they receive specific permission from the Tribal Chairman, disclose Confidential Information. If an employee believes any Confidential Information is needed during a complaint or claim process, the employee must obtain written permission from the Tribal Chairman for its use or follow the applicable FPT procedures for use of such information in the claim process.

3. If an employee is served with a subpoena, discovery requests, or other legal document seeking to compel the disclosure of Confidential Information, the employee must immediately notify the Tribal Human Resource Office.

4. The duty to maintain information as Confidential continues even after resignation and/or termination.

5. Without the Tribal Chairman’s prior approval, employees may not use or disclose FPT’s intellectual property for any reason.

SECTION 7: USE OF FPT TECHNOLOGY

A. Policy
This policy governs use of all technology provided by FPT to employees including, but not limited to, computers and related hardware, software (including email, word processing, document management and all other applications on FPT’s computer network), Internet access, the voice mail system, telephones and cell phones, and other hand-held devices (Technology).

B. Waiver of Privacy
1. All messages and documents sent, received, composed, and/or stored using FPT’s Technology are the property of FPT and each employee understands that there is no right to privacy in such material. FPT may monitor email or other use of FPT’s technology to ensure compliance with this or other policies or for other business purposes.

2. Passwords for voicemail and email are intended to restrict access within FPT and do not guarantee privacy.
C. Deletion Not Reliable
Employees should be aware that even when a message has been deleted, it still may be possible to retrieve it from a backup system. Therefore, employees should not rely on the erasure of messages to assume a message has remained private.

D. Message Access
Other than FPT Tribal Chairman, who has the right to authorize for business reasons access to messages at any time, voicemail and email messages are to be accessed only by the intended recipient or the sender, or by others at the direct request of the intended recipient or sender.

E. Personal Use Limited
1. FPT Technology is provided to employees to conduct FPT business, not for personal use. Subject to the limitations on use of computer software set forth below, FPT understands that on occasion an employee may need to use FPT’s Technology for communication with a family member or for other important personal matters. FPT is willing to accommodate such personal use only to this limited degree.

2. FPT Technology may not be used for personal purposes such as commercial, religious, union, or political causes, or to access or receive sexually explicit material, or in violation of any other FPT policy. This prohibition applies both to electronic communication transmitted internally and outside FPT. Personal use of FPT Technology that interferes with any employee’s work performance to any degree shall not be tolerated.

F. Software Licenses and Compliance with Laws
1. FPT purchases and licenses the use of various computer software for business purposes and generally does not own the copyright to this software or its related documentation. Unless authorized by the software developer, FPT does not have the right to reproduce such software for use on more than one computer.

2. Employees may only use software on local area networks or on multiple machines according to the software license agreement. FPT prohibits the unauthorized duplication of software and its related documentation.

G. Network Administration Security
All external drivers must be scanned for viruses prior to being used on any FPT computer. All material downloaded from the Internet must be scanned for viruses before opening or loading on the computer.

H. Unauthorized Applications
Employees may not install any software on a FPT computer without the authorization of the IT Director.

I. Confidentiality of Access Information
Telephone numbers for dialing into FPT’s network are confidential and may not be given to
non-employees without the approval of the IT Director or Tribal Chairman.

J. Chatting and Blogging-Type Activities
Employees must not use an FPT email address to participate in blogs, discussion groups, chat sessions, or new groups, unless approved by the Tribal Chairman, and unless a disclaimer approved by the Tribal Chairman is included in communications.

K. Prohibition on Use of Technology for Discrimination or Harassment
In addition to the above, FPT prohibits the use of its Technology in ways that violate the standards of conduct, including but not limited to, policies against discrimination, harassment, and bullying. In particular, FPT prohibits downloading, accessing, displaying, sending, and receiving material that may violate these policies. If an employee is in doubt about whether a use is proper, the employee should not use Technology for that purpose without receiving specific authorization.

SECTION 8: SOCIAL MEDIA POLICY
Employees shall refrain from using social media while on work time or on equipment provided by FPT, unless it is work-related as authorized by your supervisor, manager, or consistent with the Tribal Equipment Policy. Do not use the Tribe’s email addresses to register on social networks, blogs, or other online tools utilized for personal use.

SECTION 9: DISCIPLINARY PROCESS
A. Policy
The goal of progressive discipline is to, whenever possible, correct the problem, rather than punish an employee by discharge or suspension.

1. This process includes verbal warning, written warning, suspension and termination.

2. Whenever an employee engages in conduct warranting disciplinary action, the Program Director may, at their discretion, take disciplinary action the supervisor deems appropriate. There is no requirement that any particular process be followed in any individual circumstance. The Program Director, with the Tribal Chairman’s concurrence, or the Tribal Chairman if the employee to be disciplined is a Program Director, may use the following actions with respect to an employee whose performance or conduct is deemed unsatisfactory. The following is a suggested, not required, process the Program Directors can use

3. Verbal Warning

1. A Program Director may issue a verbal warning to an employee for inadequate work performance or acts of misconduct as outline in Section 6. The Program Director should document the discussion and both the employee, and the Program Director should sign the document. The document must be placed in the employee’s personnel file.
2. Verbal warnings do not generally involve any loss of wages or benefits and cannot be grievances.

4. **Written**

1. A Program Director, after consultation with HR and with review of the Tribal Chairman, may request that HR prepare a written reprimand that describes the conduct warranting disciplinary action or inadequate work performance, specifies the improvement required, refers to any previous disciplinary actions and specifies a time, for the employee and supervisor meet to discuss the reprimand.

2. The Program Director shall deliver the notice to the employee and after meeting with the employee, request the employee to acknowledge receipt of the written reprimand. If the employee refuses to sign the written reprimand, the Program Director should note the refusal on the document. The written reprimand shall be placed in the employee’s personnel file and the employee shall be provided a copy.

3. An employee may file a grievance pursuant to Section 11 to the written reprimand that will be placed in the employee’s personnel file.

5. **Suspension**

1. A Program Director may, with review by Human Resources and approval of the Chairman suspend an employee without pay for up two pay periods. If a paid holiday falls during the period an employee is on unpaid suspension, the suspended employee will not receive pay for the holiday.

2. On or before the effective date of the suspension, the employee shall be provided a written notice describing the conduct warranting the suspension and the duration of the suspension. During an unpaid suspension, the employee may not use any paid leave. During the period of suspension, the employee may not perform any of the employee’s job duties. During the period of suspension, the employee may not be on FPT premises without specific prior authorization except the employee may pick up the employee’s paycheck. A suspended employee may use grieve his/her suspension pursuant to the employee grievance policy.

6. **Termination**

1. A Program Director may terminate an employee after Human Resources reviews the proposed action and the action is approved by the Tribal Chairman.

2. The termination notice of discharge must document the conduct warranting termination and delivered to the employee with an instruction to vacate the job premises. The Notice of Discharge shall be placed in the employee’s personnel record with a copy to be provided to the employee.
3. A terminated employee may grieve the termination pursuant to the employee grievance policy.

7. **Other Disciplinary Actions**
   1. A Program Director may deny use of annual leave in writing when the infraction is absenteeism, excessive tardiness, or neglect in obtaining prior approval for leave. Denial can be up to thirty (30) days. An employee may grieve a denial of leave.

   2. Any employee convicted or proof exists of embezzlement and/or theft or was a party to a proven theft from an Indian organization shall be immediately terminated.
SECTION 10: SEPARATION FROM EMPLOYMENT

A. Voluntary Termination/Resignation
   1. Employees may resign, in writing, with at least a two-week advance notice from their employment position.

   2. Employees resigning without providing two weeks’ notice will have the action noted in their official personnel file. The resignation shall contain the date that the resignation will become effective, reasons for leaving and a forwarding address.

   3. Upon receipt of a resignation, the Program Director/Supervisor shall notify the Tribal Office of Human Resource Management by submitting a copy of the resignation and a Personnel Action Notice. The resignation must be approved by signature of the Program Director and the Tribal Chairman to be considered effective and final using the Personnel Action Notice.

   4. Verbal resignations are not recognized. If an employee verbally resigns his/her position and leaves the work station, it will be considered “job abandonment,” and the employee may be discharged immediately at the discretion of the Director, after consulting with the Tribal Chairman, with the action submitted and entered into the employee’s official Personnel File. In such cases, the discharge must be signed by the Program Director and approved by signature by the Tribal Chairman using the form Personnel Action Notice to be effective.

B. Involuntary Termination
   If an employee’s job performance or conduct does not meet the expectations of management, the employee’s employment may be terminated in accordance with these policies.

C. Reduction-In-Force (RIF)
   1. The Tribes may lay off an employee when it is considered necessary because of a shortage of funds, lack of work, or the abolishment of a position or reorganization of a tribal program. The employee shall be notified at least fourteen (14) days prior to the effective date and shall be given written notice of the reasons for the layoff.

   2. The Tribal Human Resource Director shall establish a uniform procedure for reductions in force. Seniority, job performance and type of employment shall be considered in determining the order of layoffs in a manner approved by the Tribal Executive Board. The Office of Human Resources may require and exit report.

   3. The Chairman and the Human Resource Director shall place any laid off employee in another position, if any is available, for which the employee is qualified.

   4. A new date of employment shall be established for employees who return to duty after a layoff for more than one (1) year.
5. Layoffs of 40 hours duration or less do not require the 14 days’ notice prior to layoff.

6. An employee may be given an intermittent time-limited furlough without pay in lieu of a layoff. Employees are not allowed to use vacation leave while on furlough.

D. Final Payment
Employees separating from employment with FPT will receive their final paycheck on the next regularly scheduled payday following separation. If the employee is eligible, the final paycheck will include payment for accrued unused annual leave and any owed compensation.

E. Return of FPT Equipment/Property
Employees separating from employment must return all FPT equipment and property on or before the last day of the employee’s employment. Upon receiving a separation notice (resignation or termination), Human Resources will work with the Program Director to ensure all FPT equipment and other property is returned.

F. Reinstatement Policy
To be considered for re-employment, former employees must meet all of the pre-employment requirements including drug testing and background check. Upon re-employment, employees will retain credit for past service only if the break in service is less than 30 calendar days. All other former employees will be considered new employees from the date of rehire.

SECTION 11: GRIEVANCE PROCEDURE AND APPEALS

A. Purpose
1. The Fort Peck Tribes commit to provide a constructive problem-solving mechanism to promptly address employee grievance.

2. All Permanent Full-time and Part-time employees are entitled to file grievances.

3. Only specific actions or omissions to act, committed by the Fort Peck Tribes as an employer, that cause the employee to suffer an adverse employment action may be grieved. An adverse employment action is an action that effects the employee’s salary or benefits including demotion that results in a reduction in wages, unpaid suspension or termination.

4. Tribal Executive Board Management decisions to implement policies, restructure or reorganize the Tribal workforce organization are not grievable matters.

B. Process
1. Step One
   Written Grievance to Supervisor. Within seven (7) working days of the date of the incident or action which gave rise to the grievance, the employee shall file a signed written grievance with their immediate supervisor setting forth the action that he or she is grieving, the facts or basis for the employee’s grievance, the action or remedy the
employee seeks, with any supporting documentation attached. The employee shall also provide a copy of the grievance to the Human Resource Director at the same time.

With five days of receipt of an employee grievance, the Supervisor shall meet with the employee and attempt to resolve the issue/event resulting in the employee’s grievance. If no resolution occurs, the supervisor shall respond in writing to the written grievance within seven (7) working days of the meeting unless the parties agree in writing to an extension of time. The Human Resource Director shall be provided notice or copies of any extensions of time. The supervisor shall include in the written response whether he/she finds merit in the employee’s grievance and agrees to the remedy sought or whether he/she denies the grievance remedy.

2. **Step Two**  
   *Appeal of Grievance to Program Director.* If the grievance is not resolved to the satisfaction of the employee under Step one or the supervisor fails to respond within the required timeframe, the employee may file a written appeal to the Program Director within seven (7) working days of receiving the written decision or response deadline if no supervisor response. The employee shall also provide the Human Resource Director with a copy of the appeal.

   The Program Director shall investigate the grievance, may meet with the grievant and supervisor, and shall render a decision on the grievance within seven (7) working days of receipt of the appeal unless the parties agree to an extension of time. The Human Resource Director shall be provided notice or copies of any extension time. In the case where the grievant is a Program Director with the right to aggrieve under these policies and procedures, Step One shall be a written grievance to the Tribal Chairman in accordance with the same timeframes set forth above.

**C. Appeals to Grievance Committee Process**

1. **Appeal to Grievance Committee.** If the grievance is not resolved to the satisfaction of the employee under the above Steps, the employee may file a signed written appeal to the Grievance Committee through the office of the Human Resource Director within five (5) working days of their receipt of the decision by the Program Director (or decision of the Chairman if the grievant is a Program Director).

2. The employee shall submit a written appeal of the Step 2 decision and attach all documents attached to the original appeal and the written decisions from Step 1, if it exists, and written decision from Step 2. The grieving employee may include a statement of reasons why the appeal decisions are incorrect and specify the relief sought. Upon receipt of a timely and proper appeal, the Grievance Committee shall, within five (5) working days of receipt of the appeal, coordinate with the Human Resource Director and set a hearing date that shall be not less than ten (10) working days from the date of the hearing notice. Such notice of hearing shall be provided to the grieving employee.

3. **Grievance Committee hearing:**
a. The Grievance Committee may conduct an informal hearing that will allow the employee and the supervisor or Program Director a full opportunity to address issues in the written appeal and written responses. The Grievance Committee shall have the right to question either party or any witnesses either party brings to the hearing. Further, the Grievance Committee will only review the record and testimony provided in the hearing to render a decision and shall not conduct any investigation of the appeal beyond such record and hearing.

b. The employee may be accompanied by an attorney or lay advocate, who may make opening and closing arguments on behalf of the employee, but all questioning of witnesses shall be done by the Grievance Committee or with their permission.

c. The hearing shall be recorded, and a record kept, of all evidence that is submitted. Evidence and arguments that were not presented by the employee during Step One through Step Three of the will be only be allowed upon a showing that such evidence was unknown at Step One.

d. The decision of the Grievance Committee shall be in writing, signed, and explain the reasoning and factual basis for the decision.

D. Grievance Committee

1. The Tribal Grievance Committee shall consist of three (3) permanent members and two (2) alternates. The Committee shall be composed of two (2) persons who are managers or directors of a tribal program or a federally funded program and one (1) who is an employee of a tribal program or federally funded program.

2. Two alternates shall be composed of one (1) manager or director of a tribal program or federally funded program and one (1) employee of a tribal program or federally funded program.

3. The Tribal Chairman shall select the permanent members, alternates and replacement members of the Grievance Committee. In the event a member is disqualified, The Chairman shall select an alternate to replace the disqualified member from the two-person pool of alternates.

4. The terms of office for the Grievance Committee members shall be staggered terms of three (3) years each, to allow for the replacement of one (1) member each year. Members may serve one additional term to the initial term.

5. To be eligible to hold the office of Grievance Committee Member or an alternate, a person, (1) must be a director or manager of a tribal program or federally funded tribal program or an employee of a tribal program or federally funded tribal program; (2) must be at least 26 years of age; (3) Must have at least a high school education or its equivalent; (4) must have never been convicted of a criminal offense other than traffic offenses; and (5) must be physically able to carry out the duties of the office.
6. On taking office, each member of the Committee shall be sworn in and take an oath of office.

7. Any member of the committee shall disqualify him/herself in any proceeding if he or she has a conflict of interest including: personal bias or prejudice against either party, familial relationship with either party, personal knowledge of the appeal, a financial or other interest in the appeal, representation of either party as a lay counselor or attorney.

E. Grievance Committee Responsibilities
1. The Chairman/Chairwoman of the Grievance Committee shall preside at the hearing and be responsible for maintaining an orderly and dignified hearing. He/she will ensure that each party is given full opportunity to address the issues raised in the appeal.

2. Three (3) Committee members shall be present in all grievance proceedings.

3. After hearing all evidence and testimony, the Committee, in closed session, will consider the evidence and testimony presented at the hearing. The Committee will issue a written decision within five (5) working days of the hearing. If the decision involves financial compensation, such compensation must comply with any applicable grant guidelines or other Tribal financial restrictions. The decision of the Committee shall be final, and the decision shall not be appealable to the Fort Peck Tribal Courts.

F. Retaliation Prohibited
All eligible employees are encouraged to use the Grievance Procedures. Employees shall be free from restraint, retaliation, coercion, and discrimination when using these procedures.

SECTION 12: HOURS OF WORK

A. Work Week
For payroll and overtime time purposes, the basic work week for the Fort Peck Tribes will consist of five eight (8) hour days, Friday through Thursday.

B. Work Day
Generally, the normal work day for full-time employees is eight (8) hours, 8:00 a.m. to 12:00 p.m. noon, and from 12:30 p.m. to 4:30 p.m.

C. Rest Periods
Employees receive a 15-minute rest period during each four (4) hour work period. To the extent possible, rest periods will be scheduled in the middle of work periods. Employees must not be absent from their workstations beyond the allotted break time. Tardy return from rest periods may result in disciplinary action.

D. Employee Meal Periods
1. For each five (5) hours worked, employees receive a 30-minute meal period that may be schedule by the supervisor or Program Director. For hourly employees, this lunch period
is generally unpaid. FPT will relieve employees of all active responsibilities during meal periods. In the rare circumstance that an employee is required to remain on duty or in the service of FPT during a meal period, the employee shall be paid for the meal period. Working through a meal period is strongly discouraged. Employees must sign in and out using the method implemented by their Program Director when leaving and returning from meal periods.

2. Neither rest nor meal periods may be used to shorten the work day (such as arriving late or leaving early) nor may they be saved to use at a later date.

3. Employees must immediately report to a supervisor, Program Director or Human Resources if they believe they are not receiving meal or rest breaks in accordance with this policy.

E. Attendance, Punctuality and Call-In Procedure

1. All employees are required to be on the job at the beginning of their scheduled shift. All employees of the Tribes are required to be on the job at 8:00 a.m. and to utilize the appropriate daily check-in and check-out procedures of the established Tribal Program.

2. An employee who is going to be absent or tardy must notify the supervisor as soon as the employee becomes aware of the possibility of absence or lateness, but no later than one (1) hour prior to the scheduled start time (except in extenuating circumstances). If the supervisor is unavailable, the employee shall contact Program Director or another supervisor within the same program. If no program manager is available, the employee must contact Human Resources as soon as possible and no later than the time the employee’s work day is scheduled to begin. In the event an employee must call in prior to or after business hours, the employee may leave a voicemail including a call-back number. In accordance with this paragraph, if an employee is absent without prior medical certification provided to the supervisors, the employee must call the immediate supervisor each day the employee is absent.

3. Any Tribal employee who is not properly using the daily check-in, check-out attendance procedures of his/her Tribal Program, (e.g., punching another employee in or out) will be subject to disciplinary action.

4. An hourly employee who is more than seven (7) minutes late will be required to sign out for Leave Without Pay (LWOP) in fifteen (15) minute increments for the amount of time the employee is late. In some instances, the Program Director/Supervisor may allow an employee to utilize their annual leave.

5. FPT reserves the right to refuse permission for an absence or late start.

F. Tardiness

The Program Director shall discipline employees for repeated tardiness in accordance with this policy manual. A Program Director may deny use of annual leave in writing when the infraction is absenteeism, excessive tardiness, or neglect in obtaining prior approval for
leave. Denial can be up to thirty (30) days. Excessive absenteeism and tardiness can be the basis for discharge when all other efforts to correct it have failed.

G. Alternative Work Week Schedule
1. A permanent full-time employee with the concurrence of his/her Program Director, or a Program Director, may present an Alternative Work Week Schedule to the Tribal Chairman for Administrative Action (Approval or Disapproval). If approved, copies of the Alternative Work Week Schedule will be sent to the Payroll Department (to assure it is being followed) and the Human Resources Department.

2. All permanent full-time employees will be required to maintain a forty (40) hour work week.

3. Any Alternative Work Week Schedule may be terminated at any time, with the concurrence of the Tribal Chairman.

H. Training and Meeting Times
1. Any employee required by FPT to attend training or a business-related meeting outside their regularly scheduled work hours may be compensated for the time as time worked with prior approval by the Program Director. Employees are required to discuss attendance at training programs or optional meetings in advance with their supervisor. Employees must also comply with any training documentation requirements such as providing Human Resources with training records. Additional information may be found in the Training & Career Development Section of this manual.

2. This policy does not apply to an employee’s voluntary attendance outside of normal working hours in formal or informal educational instruction or instruction, which generally leads to improved job performance. Although FPT generally encourages employees to improve upon job skills and promotional qualifications, such activities will not be subject to this policy regarding reimbursement or compensation for educational endeavors, unless FPT authorizes your participation or attendance.

I. Penalties
1. If the employee is on-site at the training location and cannot attend due to illness, he/she must immediately contact their supervisor, Program Director, or Human Resources and request approved sick leave.

2. Time in training during duty hours is official duty time. It is not administrative, education, or any other form of leave. Any employee who fails to attend a training session during duty time is absent without approved leave (AWOL) and may be liable for reimbursement of training and travel funds to the Tribes and may also be subject to disciplinary action unless the leave has been granted.

J. On-Call Time
On-call time is time spent by employees, usually off the working premises, in their own pursuits, where the employee must remain available to be called back in to work on short
notice if the need arises. Employees may be compensated for on-call time when such time is spent “predominantly for the employer’s benefit.”

K. Overtime
1. Overtime is a wage benefit provided to hourly employees who work more than forty (40) hours in a work week.

2. Employees must comply with all departmental conditions related to the authorization, approval and reporting of overtime. Employees must obtain prior written approval from the appropriate supervisor, with the concurrence of the Tribal Chairman, to work any overtime unless there is a true emergency situation and the supervisor cannot be reached despite reasonable efforts. The amount of and reason for the overtime shall be documented by completing the overtime form and attaching it to the time record. Employees shall not be authorized to work overtime in order to complete work in anticipation of taking paid leave.

3. Overtime is calculated at one and one-half (1 ½) times the employee’s regular rate for each hour worked in excess of forty (40) hours per work week.

4. False claims regarding overtime and/or a failure to follow the above procedures will result in discipline up to and including termination.

5. Compensatory time is not allowed.

L. Wage and Hour Complaints
An employee must both contact Human Resources and the Program Director if the employee’s categorization as hourly or salaried seems improper or incorrect.

M. Error on Time Records or Paycheck
1. If an error is made on an employee’s time record or paycheck, the employee must immediately notify the employee’s supervisor, or if necessary, the Program Manager in writing.

2. Any employee’s request for changes to the time record must be submitted in writing to the payroll department by the Supervisor. The revised time record will be processed on the next scheduled pay date. FPT urges all employees to accurately and carefully record time. If FPT discovers the error, Payroll or Human Resources shall contact the employee to advise the employee of the error and make arrangements to correct the employee’s pay.

3. Any compensation error will be promptly investigated and corrected.
SECTION 13: EMPLOYEE BENEFITS

A. Definition of Terms

   Eligible Regular Employees: A regular full-time employee is any employee who has satisfactorily completed the probationary period and works regularly and continuously (as opposed to a pre-set temporary duration) a minimum of thirty (30) hours per week.

   Plan Administrator: The Plan Administrator is responsible for performing and coordinating day-to-day benefit plan administration associated with FPT’s employee health and wellness program. This position is responsible for ensuring accurate and timely communication and administration in accordance with plan designs.

B. General

   1. FPT may offer benefit plans to permanent employees but reserves the right to change premium values, employee costs, and to amend or discontinue benefits and/or plans at any time, for any reason, financial or otherwise, to the extent allowed by applicable law or ordinance. Should any of the information contained in this handbook be found inconsistent with the official plan documents, the provisions of the official documents may govern in all cases.

   2. Any dispute relating to the terms, conditions or provisions of any employee benefit plan shall be subject to review by the Plan Administrator. The decision of the Plan Administrator will be final and binding to the extent allowed by applicable law. The Plan Administrator may be contacted through Human Resources.

   3. Further information regarding FPT benefit programs can be obtained from the Summary Plan Description (SPD) provided to employee. Employees who misplace their SPD should contact Human Resources.

C. Eligibility

   1. Participation in employee benefit plans for life insurance, disability and retirement will be governed by the terms and conditions of such plans.

   2. FPT enrolled members, Associate members and members of other federally recognized Tribes are eligible for the Tribally Sponsored Health Insurance Program (TSHIP) pursuant to the terms of that program.

   3. FPT offers a group health insurance plan to non-Indian employees, spouses and dependents.

   4. Continuation of Health Benefits (COBRA)

      FPT gives certain current and former employees, their spouses and dependents the opportunity to continue health benefits on a self-paid basis if the employee experiences what is referred to as a “qualifying event.” Qualifying events might include:
1. Voluntary resignation or termination
2. Reduction in work hours
3. Family and Medical Leave, or non-medical Leave of Absence
4. Death of employee
5. Divorce or legal separation
6. Covered dependent ceases to be eligible for benefits.

During the benefit continuation period, the employee pays premiums for health benefits at FPT group rates plus an administrative charge. Employees should contact Human Resources regarding eligibility or questions.

5. **Workers’ Compensation Insurance**
   1. A comprehensive Workers’ Compensation Insurance program is provided to all classifications of employees at no charge to provide benefits to employees that are injured during employment hours when undertaking employment duties. Employee’s coverage begins the first date of employment. Specific coverage details are included in the Tribes’ insurance policy.

   2. Employees sustaining a work-related injury or illness should notify their supervisor immediately. An “Employee’s Injury Report/Claim Notice” must be completed and delivered to the Human Resources Office within 24 hours. Human Resources will forward the Employee Injury Report to the Insurance Company.

6. **Long-Term Disability Insurance**
   1. FPT provides eligible full-time employees a Long-Term Disability (LTD) benefit plan terms and conditions of the LTD coverage are detailed in the plan with the insurance carrier.

   2. Eligible employees are provided details of the LTD benefit plan including benefit amounts, limitations, restrictions, and other exclusions in the Summary Plan Description. Contact Human Resources for more information about LTD benefits.

7. **Life Insurance, Accidental Death and Dismemberment Insurance**
   1. FPT provides a basic Life Insurance Plan for regular full-time employees. Additional supplemental and/or dependent life insurance coverage may be purchased. FP Tribes may also provide Accidental Death and Dismemberment (AD&D) insurance. AD&D insurance coverage is provided as part of the basic life insurance plan.

   2. Terms and conditions between FPT and the insurance carrier may apply to employees participating in the Life Insurance Plan.

   3. Details of the basic Life Insurance Plan, including benefit amounts, are described in the SPD. Contact Human Resources for more information about life insurance benefits.
8. **Unemployment Insurance**
FPT participates in the State of Montana’s Unemployment Insurance Program administered by the Department of Labor and Industry. All employees are eligible for to apply for this program.

9. **Retirement Plan – 401(k)**
1. To assist employees, prepare for financial security after retirement. FPT has established a 401(k) Retirement Plan. All permanent full-time employees may participate in the 401(k) savings plan.

2. Employees must first complete six (6) months of service. Also, employees must work at least 1,000 hours during the first 12 months of employment or in any later plan (calendar) year. Employees may join the plan only during open enrollment periods. Terms and conditions of the 401(k) apply to all participants.

3. Complete details of the 401(k) savings plan are described in the SPD provided to eligible employees. Contact Human Resources for more information about the 401(k) plan.

10. **Death of an Employee**
Upon the death of an employee, the employee’s beneficiary shall contact Human Resources. The beneficiary must provide proof of identity and authority to act on behalf of the estate of the deceased employee.

11. **Holidays**
1. The following days shall be designated as holidays for all Tribal employees, to include temporary employees:

   - New Year’s Day
   - Martin Luther King’s Birthday
   - Presidents Day
   - Memorial Day
   - Independence Day
   - Labor Day
   - Veteran’s Day
   - Tribal Thanksgiving Day (2 days)
   - Christmas Day
   - Fort Peck Reservation Day (Dec.31)
   - Any day designated as a holiday by an official order of the Tribal Executive Board.
   - The hours between 12:30 p.m. and 4:30 p.m. the Friday of Native American Week
2. Any Tribal employee will not be granted holiday pay for the above holidays if he/she is on unauthorized leave the day preceding or following the holiday.

3. When a holiday is on a Sunday, all tribal offices and departments will be closed for business on the following Monday. When a holiday is on a Saturday, all tribal offices and departments will be closed for business on the preceding Friday.

4. Temporary employees must be in pay status preceding and following any designated holiday(s) in order to receive holiday pay.

SECTION 14: EMPLOYEE LEAVE POLICY

SECTION 14: EMPLOYEE LEAVE POLICY

A. Definition of Terms

1. Immediate Family: An employee’s spouse, child, or parent.

2. Serious Health Condition: An illness, injury, impairment, or physical or mental condition requiring inpatient care or continuing treatment by a health care provider that is likely to result in a period of incapacity of more than three (3) calendar days.

B. Annual Leave

Annual leave will accrue from the date of appointment and may be used during the ninety (90) day probationary period. The following outlines the Fort Peck Tribes Annual Leave Policy.

1. Annual leave shall accrue as follows:

   a. Employees employed for three (3) years or less will accrue four (4) hours for each eighty (80) hours worked. The maximum carry-over from one (1) year to the next shall be two-hundred and eight (208) hours of annual leave.

   b. Employees employed for three (3) or more years will accrue six (6) hours for each eighty (80) hours worked. The maximum carry-over from one (1) year to the next shall be two-hundred and eight (208) hours of annual leave.

   c. Employees employed for fifteen (15) years and over will accrue eight (8) hours for each eighty (80) hours worked. The maximum carry-over from one (1) year to the next shall be two-hundred and eight (208) hours of annual leave.

   d. Prior permanent service with the Fort Peck Tribes including Tribal Executive Board membership shall count toward the hours of accrued annual leave, subject to the approval of the Tribal Executive Board membership and/or Tribal Chairman. It is the responsibility of each Tribal employee to notify the Office of Human Resource Management of past permanent work history with the Fort Peck
Trades.

2. Vacations shall normally be taken, or annual leave used within one (1) calendar year from the date earned.

3. Annual leave shall be used on normal working days during which an employee would otherwise work exclusive of holidays and other non-work days.

4. Tribal employees, who complete an intertribal transfer of employment will retain and transfer any unused accrued annual leave.

5. Annual leave must be approved of by the Program Director/Supervisor prior to annual leave being taken. The Program Director/Supervisor has the discretion to deny an annual leave request if utilization would interfere or hamper the Program’s operations or if the employee fails to give adequate notice of intent to utilize annual leave.

6. If the employee does not report to work or does not get prior approval of annual leave, the Program Director/Supervisor may require the employee to take Leave Without Pay.

7. A Program Director's request for annual leave shall be approved by the Tribal Chairman.

8. Permanent employees that are appointed to a temporary position, for a specific period of time, will continue to accrue annual leave.

9. Tribal employees will be required by their Program Director/Supervisor to take annual leave when conducting personal business with the Tribal Executive Board and Committees, i.e., Lobbying Board members. If they are conducting business for their program they will be on the agenda, except in emergency cases.

C. Sick Leave

1. Sick leave shall only be used when the employee is physically incapacitated to perform his/her daily job duties and responsibilities.

2. Sick leave shall be allowed for the following:
   a. Actual sickness or disability of the employee.

   b. To see a licensed physician or medicine man/woman.

   c. To complete various medical, physical, optical or dental exams and treatments.

   d. Pregnancy, with written verification from the employee's physician that the employee is physically unable to perform the duties and responsibilities of her position.
e. Exposure to contagious disease which would endanger the health of co-workers.

f. The presence of an illness within the employee's immediate family which requires personal care.

3. A Program Director's request for sick leave shall be approved by the Tribal Chairman.

4. New Employees appointed temporarily to a position are not entitled to sick leave benefits. However, existing employees temporarily appointed to another position will retain all leave, including sick leave.

5. Sick leave shall accrue as follows:

a. Permanent employees of the Tribes shall earn sick leave benefits at the rate of four (4) hours for each bi-weekly pay period. Sick leave benefits shall be accrued during the 90-day probationary period.

b. No employee shall accrue annual leave or sick leave while on leave without pay status.

D. Paid Administrative Leave

1. Employees may be granted administrative leave for any of the following reasons at the discretion of the employee's Supervisor, Program Director and/or the Tribal Chairman:

a. Taking a physical examination required for entry into the Armed Forces or when required by the local draft board.

b. Donating blood to the American Red Cross or in emergencies to individuals for the time necessary for such donation, not to exceed four (4) hours, providing that the employee does not receive pay for the donated blood.

c. Participation in public activities in which the Fort Peck Tribes participate or are interested in, provided the employee or employees can be spared without detriment to the completion of their daily duties, provided further that it would not require the employment relief worker or the payment of overtime.

d. Participating in emergency rescue or protective work under the same provisions in subsection (d) above.

e. Participation in federally recognized civil defense programs for a reasonable amount of time up to forty hours in a calendar year.

f. Any tribal employee who is a registered voter may on the day of an election, whether Tribal, Federal and State be granted administrative leave with pay for a
period of not to exceed two (2) hours during a regular work day for the purpose of voting.

g. When administrative leave is granted for half days for pow-wows, funerals, etc., an employee must be on work status for the first half or remaining half of the day that administrative leave is granted, to qualify for the administrative leave. If the employee is utilizing sick, annual or comp time for that day, the employee must use eight (8) hours of leave and will not be allowed to use the administrative leave for that day.

h. Tribal employees who are members of the Board of Directors shall be required to take administrative leave on the day of a scheduled Board meeting and will not receive compensation in addition to or above their regular pay.

i. The Tribal Chairman's office shall grant administrative leave with pay for those tribal employees who are associated with "Sun Dance" ceremonies and other religious ceremonies such as retreats, camp meetings, and revivals, and limits one ceremony per year (either on or off the reservation) for up to five (5) days.

j. Administrative leave shall be granted with pay to those tribal employees participating in the Tribal Fitness Program three (3) hours per week.

2. The Tribal Chairman’s Office shall grant administrative leave to employees who wish to assist and participate in identified critical need services targeting issues that are detrimental to the overall health and well-being of our Tribal membership.

a. An employee seeking administrative leave under this section shall make the request to the employee’s supervisor. If approved, the supervisor will forward the request to the Chairman of the Tribes for final approval.

b. Allowed service projects include, but are not limited to suicide prevention activities, law enforcement activities, neighborhood watch, teaching, education, child and family mentoring.

c. Administrative leave under this section may not exceed four (4) hours, per pay period.

E. **Funeral Leave**

1. All regular employees are eligible for funeral leave beginning with their first full day of active employment.

2. Whenever reasonable, funeral leave must be approved in advance on a leave form by the employee’s immediate supervisor.

3. Funeral leave may be granted up to three (3) days with pay, to an employee in case of
a death of an immediate family member. Immediate family shall include spouse, and parents thereof; sons and daughters, and spouses thereof; parents, and spouses thereof; brothers and sisters, and spouses thereof; grandparents and grandchildren, and spouses thereof; aunts and uncles, nieces and nephews and first cousins, domestic partner and parents thereof, including domestic partners of parents, children, grandchildren or grandparents.

4. Up to two (2) additional days of sick leave may be used with approval by the Program Director for employees following the death of an immediate family member.

5. Funeral leave not to exceed one (1) day with pay may be granted by the Program Director to an employee who participates as an active pallbearer or functions in a direct capacity during a funeral.

F. Court and Jury Leave
1. Regular and probationary employees shall be granted jury duty leave for the period of time that they are required to serve on a jury and shall receive their regular pay for the days they would have been scheduled for work.

2. When any employee presently employed by the Tribes is subpoenaed or summoned to appear in a Federal or Tribal Court as a juror or as a witness in connection with the employee's official duties or capacity, such employee shall be entitled to court or jury leave with pay, the entire period required, regardless of the number of hours per day or days per week.

3. Fees received as a witness or compensation for jury duty, not including reimbursement for transportation and per diem in lieu of subsistence expenses, shall be paid to the Fort Peck Tribes.

4. If an employee is subpoenaed or summoned to appear in any of the above-mentioned courts of law as a witness in a matter not related to the employee's official duties or capacity, it will be the responsibility of the employee's Program Director/Supervisor to determine:

   i. Whether the employee shall be entitled to court leave with pay.
   ii. If entitled to court leave, the disposition of the fees and/or reimbursements received over and above the travel and subsistence expenses.

G. Military Leave
1. Permanent employees of the Fort Peck Tribes who are members of a reserve component of the Armed Forces, shall be granted military leave, with pay, not to exceed fifteen (15) calendar days in any calendar year when they are called to active duty, training or State and National emergencies.

2. Applications for military leave, in writing, must be supported by a military certification from an official officer of the Armed Forces or reserve component of
which the employee is a member.

3. Military leave granted to permanent employees in excess of fifteen (15) calendar days in any calendar year shall be first charged to the employee's credited and accrued annual leave, with pay, until the annual leave is exhausted. Permanent employees who have exhausted all accrued annual leave may be granted Administrative Leave, without pay, for the remainder of his/her service time, subject to the concurrence of the Tribal Chairman.

4. Upon returning to duty with the Tribes, the employee will be required to furnish a copy of a certification of attendance and completion from his/her commanding officer to his/her immediate supervisor showing the days and which the employee was engaged in military training in service.

5. Temporary employees of the Tribes who are members of a reserve component of the Armed Forces shall use leave without pay in accordance with Section 2 and 5 of this Chapter when called to active duty or training.

H. Absences Without Leave

Any unauthorized absence of an employee from his/her position shall be considered as absence without leave (AWOL) and be without pay. Any employee who is absent for one or two days without authorized leave shall be subject to disciplinary action. Any employee who is absent for three days without authorized leave shall be terminated from employment. If extenuating circumstances existed, such an absence may be allowed by the employee's supervisor with a subsequent grant of leave with or without pay. An employee absent without shall not accrue annual or sick leave or be entitled to other employee benefits in the pay period of the absence.

I. Educational Leave

1. Educational leave may be granted to Tribal employees by their Program Director/Supervisor up to five (5) hours per week and doesn’t have to be job related, provided proof of the educational leave is to continue their higher education and possibly gain a diploma in the area of expertise they are wishing to pursue for a career with the Fort Peck Assiniboine and Sioux Tribes. An employee that requires educational leave beyond the five (5) hours granted by the Program Director/Manager will be required to provide supporting documentation to the Tribal Executive Board for approval. This documentation must specify how the additional education or job training will enhance the employee’s job performance and long-term employment with the Tribes.

2. Extended leave without pay may be granted by the Tribal Executive Board for the purpose of extended educational leave with length of absence and stipulations set by the Tribal Executive Board by resolution.

J. Family and Medical Leave
1. The Fort Peck Tribes provide medical and family leave to eligible employees temporarily unable to work due to a serious health condition or disability, pursuant to the Family Medical Leave Act.

2. **Definitions**
   a. **Key Employee:** is an employee who is among the highest paid ten (10) percent of all tribal employees. The determination of whether an employee is a "key employee" will be made at the time the Program Director receives an employee's request for leave.
   b. **Family Leave:** An unpaid leave of absence.
   c. **Immediate Family Member:** An employee's spouse, child or parent.
   d. **Medical Leave:** An unpaid leave of absence
   e. **Serious Health Condition:** An illness, injury, impairment, or physical or mental condition that involves:
      i. Any period of incapacity or treatment in connection with or consequent to inpatient care (i.e. an overnight stay) in a hospital, hospice or residential medical care facility;
      ii. Any period of incapacity requiring absence from work, school, or other regular daily activities, of more than three calendar days, that also involves continuing treatment by (or under the supervision of) a licensed physician or medicine man/woman; or
      iii. Continuing treatment by (or under the supervision of) a licensed physician or medicine man/woman for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days; or for prenatal care.

3. Family and medical leave is available for the following purposes:
   a. To care for the employee's child after birth, or placement for adoption or foster care;
   b. To care for the employee's immediate family member who has a serious health condition;
   c. For a serious health condition that makes the employee unable to perform his/her job; or
   d. Prior to the birth or placement of the child if the employee is physically unable because of pregnancy or other cause to perform the duties and responsibilities of her position, after being granted special leave by the Program Director.
4. A permanent employee who has worked for the Tribes for at least a total of twelve (12) months and 1,250 hours during the previous twelve (12) month period may take up to twelve (12) weeks of unpaid family and medical leave in any succeeding twelve (12) month period.

5. If a husband and wife are employed by the Tribes, they are entitled to a combined total of twelve weeks of family and medical leave if the leave is because of the birth or placement of a child or to care for a parent who has a serious health condition.

6. An eligible employee who is a covered servicemember’s spouse, child, parent, or next of kin may also take up to twenty-six (26) weeks of leave in a single twelve (12) month period to care for the servicemember with a serious illness or injury.

7. **Maternity Leave**
   a. Permanent female employees will be allowed two (2) weeks maternity leave with pay.

   b. Employees may also use accrued Annual and Sick Leave.

   c. Employees may be granted up to three (3) months of unpaid maternity leave. The Tribal Executive Board shall have the authority to temporarily appoint an employee to perform the duties and responsibilities of any employee on maternity leave.

8. **Interritent Leave**
   When supported by a health care provider’s certification of a serious medical condition of the employee or immediate family member, an employee requesting Medical Leave may take such leave intermittently or on a reduced work schedule. The Fort Peck Tribes retain the option to temporarily transfer that employee to an available alternate position with equal pay and benefits.

9. **Approval and Prior Notice**
   a. **Employee Notice Requirements for Leave Requests**

      i. If the need for leave is foreseeable because of the birth or placement of a child or planned medical treatment for a serious health condition of the employee or the employee's immediate family member, an employee must advise the Program Director of his/her intent to take family and medical leave at least thirty (30) days prior to the date the family and medical leave will be taken.

      ii. An employee who requests leave shall meet with the Program Director and make a reasonable effort to plan such treatment so as not to unduly disrupt the tribal operations.

      iii. If the need for family and medical leave arises less than thirty (30) days prior to notice, an employee must advise the Program Director of his/her
intent to take leave as soon as practicable under the circumstances.

iv. In the absence of a reasonable excuse, failure to provide the Program Director with thirty (30) days advance notice shall constitute grounds for delaying the commencement of an employee's leave for an amount of time equal to the difference between the amount of notice provided and thirty (30) days. The Tribal Chairman may deny a Program Director's request for leave in accordance with this subsection.

v. A Program Director requesting family and medical leave shall provide the Tribal Chairman with notice in accordance with subsections (iii) and (iv).

b. Approval of Leave Requests
   i. An employee’s request for family and medical leave must be approved by the Program Director before the employee takes leave.
   ii. A Program Director's request for leave shall be approved by the Tribal Chairman.

c. Required Contact by Employee on Leave
   i. An employee on family and medical leave must contact his/her Supervisor periodically to report his/her status and intent to return to work.
   ii. A Program Director on family and medical leave must contact the Tribal Chairman periodically to report his/her status and intent to return to work.

d. Required Notice to Employees Requesting Leave
   i. Upon an employee's request for unpaid leave and based on the information provided by the employee, the Program Director shall determine whether the leave shall constitute family and medical leave.
   ii. If the Program Director designates the leave as family and medical leave, the employee will be provided with written notice of the following:

   (1) That the leave will count against the employee’s twelve weeks of family and medical leave;

   (2) That the employee must substitute paid accrued leave for part of the leave period;

   (3) That the employee must provide medical certification and the consequences for failing to do so;

   (4) That the employee shall be restored to his/her regular position or a position that is equivalent in pay, benefits, and conditions of employment upon returning from leave;

   (5) If the employee is a "key employee" and if that status may permit the Program Director to deny restoration to prevent substantial economic injury to the Program;

   (6) That the employee must periodically inform the Program Director of his/her status and intention to return to work.
10. If the employee's request under this section relates to a serious health condition of the employee or his/her other child, the Program Director cannot deny the request for family and medical leave, but the employee must provide medical certification and substitute all accrued sick leave and annual leave prior to taking unpaid leave.

11. **Required Medical Certification**
   a. An employee requesting family or medical leave because of a serious health condition of the employee or the employee's immediate family member must submit a health care provider’s statement (from the treating physician) verifying the need for medical leave and the expected beginning and ending dates within fifteen (15) days of a written request from Human Resources. Any changes to the information in the statement must be reported to Human Resources immediately.

   b. The Program Director reserves the right to request re-certification of a serious health condition of the employee or the employee's immediate relative if:
      i. An employee requests an extension of leave;
      ii. Circumstances described in the original certification have changed; or
      iii. The Program Director receives information that gives it reasonable grounds for questioning the validity of the original certification.

   c. A request for re-certification may not be made in less than thirty (30) days from the previous certification.

   d. Upon the request of the Tribal Chairman, a Program Director requesting leave shall furnish medical certification in accordance with this section.

12. **Use of Accrued Paid Leave**
   a. Employees must use their available accrued Annual and Sick Leave, if any, during Medical Leave.

   b. An employee taking Family and Medical Leave to care for the employee's child after birth or placement must use all accrued Annual Leave and maternity leave prior to taking the remainder of the twelve weeks as unpaid Family and Medical Leave. Once paid leave has been used, the employee is entitled to take the difference between the paid leave and twelve weeks as unpaid family and medical leave.

   c. If a pregnant employee obtains medical certification that she is physically unable to perform the duties and responsibilities of her position she must also substitute accrued Sick Leave prior to taking unpaid Family and Medical Leave.

   d. Generally, employees shall be required to use accrued Sick Leave, if the leave
is taken due to the serious health condition of the employee or a member of the employee’s immediate family.

13. **Return from Leave**
   a. Upon returning from Family and Medical leave, an employee shall be restored to the position he/she held at the time the leave began or to a position that is equivalent in benefits, pay, and other terms or conditions of employment. An employee does not have a right to the same position.

   b. An employee’s failure to return from leave on the agreed date without prior communication shall be considered a voluntary resignation.

   c. If the employee does not return to work following Medical Leave for a reason other than (1) the continuation, recurrence, or onset of a serious health condition that would entitle the employee to such leave; or (2) other circumstances beyond the employee’s control, the employee may be required to reimburse the Tribes for its share of health insurance premiums paid on the employee’s behalf during the employee’s leave.

   d. Employees may be required to present a fitness for duty certificate from a health care provider prior to being restored to employment. If such certification is required by not received, the employee’s return to work may be delayed until the certification is provided and the employee may be found in violation of the Tribes’ attendance policy. In all circumstances, a returning employee must report to Human Resources on their first day back to work and must provide all required documentation.

14. **Return from Leave of Key Employees.**
   i. A Key Employee may be denied restoration upon completion of Family and Medical leave if the Program Director makes a good faith determination that the denial is necessary to prevent substantial and grievous economic injury to tribal operations.

   ii. If the Program Director decides that denial of restoration to a Key Employee is necessary to prevent substantial and grievous economic injury to tribal operations, the Program Director will, in a timely manner, deliver written notice to the employee stating that the Program Director cannot deny the Family and Medical Leave and that the Program Director intends to deny restoration following leave and explaining the reasons for the Program Director’s determination that substantial and grievous economic injury to the tribal operations will result. If the employee is already on leave, he/she must be given a reasonable time to return to work.

   iii. If, upon receiving notice of the Program Director’s determination, the employee does not return to work, he/she may request reinstatement upon returning from leave. At that time, the Program Director must determine whether denial of restoration is necessary to prevent substantial and grievous economic injury.
iv. If the employee informs the Program Director of his/her intent not to return to work or the Program Director provides the employee with written notice of its decision denying reinstatement at the end of the leave period, the employment relationship ends. In the case of a Program Director's request for Family and Medical leave, all relevant determinations made by the Program Director under this policy shall be made by the Tribal Chairman.

15. Benefits While on Leave.

a. The taking of Family and Medical leave shall not result in the loss of employment benefits accrued prior to taking leave.

b. The Tribes’ continue to pay employer-paid insurance premiums for the period of Medical Leave taken by the employee. Any share of insurance premiums that are paid by the employee prior to Medical Leave must continue to be paid by the employee during the leave. Annual Leave and other benefits do not accrue while the employee is on unpaid Medical Leave. Additional information on eligibility for, and payment of, benefits is available from Human Resources.

SECTION 15: Voluntary Leave Transfer Program

A. Purpose
The purpose of this section is to provide the Tribes’ requirements, responsibilities, and procedures for the voluntary leave transfer program. Under this program, unused sick leave of one Tribal Officer or employee may be transferred for use by another Tribal Officer or employee, as needed because of a medical or family medical emergency.

B. Definition of Terms
Medical Emergency: A medical condition of an employee or a family member of such employee that is likely to require an employee’s absence from duty for a prolonged period of time and to result in a substantial loss of income to the employee because of the unavailability of paid leave. This does not include maternity leave for a normal pregnancy or normal postnatal care.

Family Member: Family member for purposes of this policy means the employee’s: (a) spouse; (b) children, including adopted children; (c) parents; (d) brothers and sisters; (e) any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Leave Recipient: An eligible employee for whom the Tribal Chairman has approved an application to receive sick leave from the sick leave accounts of one or more leave donors.
**Leave Donor:** An employee whose voluntary written request for transfer of sick leave to the sick leave account of a leave recipient is approved by the employee’s leave approving official (immediate supervisor).

**Personal Representative:** Another employee or family member acting on behalf of an employee in the process of obtaining approval for leave transfer status.

**C. Coverage**

All permanent employees of the Fort Peck Assiniboine & Sioux Tribes, whose official position is fully funded by Tribal funds, Bureau of Indian Affairs contract/grant funds, Indian Health Service contract/grant funds or a combination of such funds. This excludes temporary employees as they are not eligible for leave benefits, those employees who are on an Intergovernmental Personnel Act (IPA) assignment to the Fort Peck Tribes, and those permanent tribal employees whose positions are funded by other federal/state/local agencies than specified.

**D. Application Procedures**

1. Current employees affected by a medical or family medical emergency must apply in writing to become a leave recipient. In the event that an employee is not capable of making application on his or her own behalf, some other employee, such as the supervisor, or a family member may make the application. However, if another individual plans to make the application, he or she must have reasonable assurance that it is the wish of the potential leave recipient to have an application made on his or her behalf.

2. Each application (HR-630, Leave Recipient Application Under the Voluntary Leave Transfer program) is to be initially submitted to the immediate supervisor of the potential leave recipient for consideration and must include:

   a. The employee’s name and position title;

   b. A brief description of the nature, severity and anticipated duration of the medical or family medical emergency affecting the applicant; and

   c. A statement from a physician or other appropriate expert, i.e. chiropractor, psychologist, etc., and any additional information, as appropriate, that shows the nature, severity and duration of the medical or family medical emergency. In the case of a family medical emergency, the potential leave recipient must provide additional information and documentation to establish that the potential recipient is required to be absent from duty to care for the family member. This documentation must also establish the projected duration of the absence due to needed care.
E. Retroactivity
1. Transferred sick leave may be substituted retroactively for periods of leave without pay (LWOP) to cover absences during a medical or family medical emergency.

2. The leave recipient must apply for transferred leave within 30 days after the end of the medical emergency to be eligible for retroactive coverage to the beginning of the medical emergency.

3. The leave recipient must provide a doctor’s statement certifying the beginning and the duration of the medical or family medical emergency, as stated in these policies.

F. Processing Applications
1. An employee who desires to become a leave recipient should submit a request to his/her immediate supervisor who reviews and recommends that it be approved or disapproved.

2. The request is submitted to the Human Resource Office so that it can be determined as to the employee’s eligibility for the program, proper documentation is submitted, and that the request is in accordance with approved policies and procedures. Requests for additional documentation will be made to the leave recipient by the Human Resource Office. Upon final review, the request shall be forwarded to the Office of the Tribal Chairman for final approval.

3. The actual approval or disapproval of an application shall be based on the determination by the Tribal Chairman as to whether the potential leave recipient’s absence from duty without available leave because of the medical emergency is (or is expected to be) at least 80 hours. In the case of a part-time employee or an employee with an uncommon tour of duty, the determination should be made on the average number of hours of work in the employee’s biweekly scheduled tour of duty.

4. In deciding whether a medical or family medical emergency is likely to result in a substantial loss of income, the Tribal Chairman should not consider factors other than whether the absence from duty without available sick leave is expected to be at least 80 hours.

G. Notification
1. If the application is approved, the applicant or his/her personal representative shall be notified of the approval as soon as possible but in any event, within five (5) working days from the date the application was received in the Human Resource office. The recipient shall also be advised that Tribal employees may now request to transfer their sick leave to the recipient's leave account.
2. If the application is disapproved, the applicant or his/her personal representative shall be notified of the disapproval as soon as possible but, in any event, within five (5) working days from the date the application was received in the Human resource Office. The applicant shall be advised of the reasons for its disapproval and that he or she may have the disapproval reviewed through the Tribal Grievance Procedure.

3. In either instance, the Tribal Human Resource Office shall prepare the approval or disapproval document for the Tribal Chairman’s signature.

H. Soliciting Leave Donations
   1. In some cases, a leave recipient may already have received an indication from other employees about their willingness to donate sick leave to the recipient. In such instances, it may not be necessary to seek donations through public announcement of the recipient’s medical or family medical emergency.

   2. More likely, however, an approved applicant will need to have the medical or family medical emergency announced in order to obtain donations. When this is the case, other employees will be made aware of such emergency situations and to whom and where donations of sick leave may be made on a voluntary basis.

   3. Approved recipients, who are looking for assistance from management to obtain leave donors, should be encouraged to allow management officials to reveal information about the recipient’s emergency situation in sufficient detail so that the general nature, severity and duration of the medical emergency is made known. Such consent for the release of this information must be in writing. However, should the approved recipient not want such information revealed, those assisting may reveal only the employee’s name, position title, tribal program, and that the Tribal Chairman has approved his/her request to be a recipient of leave donations. Potential donors are also to be advised where and to whom the donations are to be made for specified recipients.

   4. If it is a retroactive situation, the announcement should state that the donated leave is necessary to substitute for LWOP.

I. Accrual of Annual and Sick Leave
   1. Once the employee is using the transferred leave, he/she will be again eligible to accrue annual and sick leave.

   2. Any leave recipient who returns to work on a part-time schedule while still in a medical emergency situation, i.e. therapy, gradual return to work under doctor’s orders, family member’s therapy, etc., he/she will earn annual and sick leave on a prorated basis dependent on the number of hours worked.
3. If an employee who is in a leave transfer status terminates his/her employment, the transferred leave account balance will be returned to the appropriate leave donor.

J. Donating Leave
1. An employee may submit a voluntary written request that a specified number of hours (but not less than one hour) be transferred from his or her accrued sick leave account to the sick leave account of a specified leave recipient, subject to the provisions indicated below:

   a. Leave donors may **NOT** request the transfer of sick leave to their immediate supervisor.
   b. A leave donor may **NOT** donate leave that has not been earned and is not already in his or her accrued sick leave account.
   c. Without a waiver, a leave donor may **NOT** donate more than one-half of the total amount of sick leave he or she has in their sick leave account.

2. The leave donor may submit a written waiver to exceed the one-half limitation based on circumstances such as the: a.) The donor is a family member of the leave recipient; b.) The amount of leave donated is not sufficient to cover the emergency; c.) The nature of the recipient’s medical emergency and desire for privacy support lifting restrictions to provide for more hours from fewer donors, assuring minimal publicity.

   a. The donor’s leave approving official must approve the waiver request in writing to the donor.
   b. Donors shall submit their request to the appropriate leave approving official (usually the immediate supervisor). The leave approving official shall:

      1) Ensure that the donation is proper and consistent with the provisions covered above.
      2) Assure that the appropriate timekeepers make deductions from the accrued sick leave account of the donor and that the transaction to the sick leave account is properly documented.
      3) Assure that the specified recipient’s program is notified about the donation.

K. Responsibilities
1. The Tribal Human Resource Office is responsible to establish local procedures to announce medical or family medical emergency situations. Announcements must include at a minimum:
   a. Name of the recipient, position title, Tribal program, and geographical location.
b. Nature of the medical emergency with the extent of disclosure sensitive to the potential recipient’s privacy.

c. Who may donate.

d. Limitations with respect to the amount of leave that may be donated and procedures to obtain a waiver from these limitations.

e. Name and address of the official to whom the donations are to be sent.

f. Need for a verification from the donor’s leave approving official that he or she has approved the donor’s request to transfer leave. This will be documents by the completion of Form HR-71, Application for Leave.

1) Timekeepers who record leave transfer transactions must be properly trained to accurately record and track leave donations.

2) Supervisors are responsible to monitor the recipient’s medical or family medical emergency so that the donated leave is not used for purposes that are not allowed, i.e. retention of transferred leave after the emergency situation is terminated.

L. Prohibition of Coercion

No employee or management official may, directly or indirectly, intimidate, threaten, coerce, or attempt to intimate, threaten, or coerce any other employee for the purpose of interfering with any right such employee may have with respect to donating, receiving, or using sick leave. The terms “intimidate, threaten, or coerce” includes promising to confer any benefits, such as an appointment, promotion, or compensation, or effecting or threatening to affect any reprisal, such as deprivation of appointment, promotion, or compensation.
SECTION 16: TRANSFER, REASSIGNMENT AND DEMOTION

A. Definition of Terms

Demotion: A demotion is a change of employment status to a lower grade, rank, classification, or position which may result in a reduction of pay, benefits, and other privileges depending upon years of service.

Transfer: A transfer is a change of employment status from one position in one tribal program to another position in another tribal program having the same or similar qualifications, duties and responsibilities, which may or may not result in a reduction of pay, benefits, and other privileges depending upon years of service. A transfer may be voluntary or involuntary.

B. Transfers

1. A position may be filled by transferring an employee from one position in a tribal program to another position in another tribal program. The Tribal Chairman shall have the final authority to approve transfers that are not management or professional level positions.

2. To be eligible for transfer, the following conditions must be met:
   a. a vacancy must exist;
   b. only regular employees can apply or request a transfer;
   c. regular employees must have worked for the Fort Peck Tribes in a position, for a continuous period of one (1) year;
   d. the employee must be qualified as determined by an evaluation by the Human Resource Director; and
   e. both supervisors must agree, except in situations where the transfer is involuntary.

3. All employees who are transferred into another position must complete a probationary period of ninety (90) days.

C. Reassignment

An employee may be reassigned to another position at the discretion of the Chairman after consultation with the Program Director, as a result of the following:

1. Lay off procedures.
2. Failure to satisfactorily complete the probationary period.
3. The employee’s own request

4. Being assigned to the position of another employee on leave without pay or suspension.

D. Demotion
   An employee may be demoted at the discretion of the Chairman after consultation with the Program Director for any of the following reasons:

   1. Lay off procedures.

   2. When his/her position is reclassified to a lower organizational level.

   3. When he/she requests a lower organizational level.

   4. As a disciplinary measure.

E. Promotion
   1. A promotion shall be a change of assignment to a job with higher pay or greater duties and responsibilities.

   2. It is the policy of the Tribes to promote qualified regular employee’s to new or vacant positions of greater responsibility and authority.

F. Requirements Before Promotion
   Employees may apply for a promotion, only if they have completed one (1) full year in their regular position, except where a lesser period is prescribed by the Tribal Chairman in writing and if they have a satisfactory or higher performance rating.
SECTION 17: PERSONNEL RECORDS

A. Maintenance of Personnel Records
   The Tribal Human Resource Director shall establish and maintain a complete set of records on each employee. These records include a number of separate personnel files for each employee.

   1. **General Personnel File:** General personnel records include the following documentation:
      
      a. The employee’s name, job title, department, supervisor, and a current job description;
      
      b. The employee’s wage information such as rates of pay, training received, and changes in employment status;
      
      c. The employee’s application and related documentation, including resumes, tribal enrollment verification, job examinations, references, interview documentation, employment verifications, license and education records;
      
      d. Records of personnel actions affecting the employee’s status, including leave, pay adjustments, promotions, demotions, suspensions, formal disciplinary actions, and performance evaluations;
      
      e. Personnel records also contain employee provided materials. It is the obligation of each employee to furnish records or documentation verifying training or education received, and to keep FPT informed regarding changes in:
         - Name, residence address, and telephone number;
         - W-4 form for income tax withholding purposes; and
         - Persons to be notified in case of emergency; and
         - Direct Deposit forms; and
      
      f. Such other information about the employee as management or Human Resources finds necessary for business purposes.

   2. **Benefits File:** Information pertaining to the employee’s benefits including beneficiary forms.

   3. **I-9 File:** I-9 means documentation evidencing the employee’s legal ability to work.

   4. **Pre-employment File:** Pre-employment information including background, credit and/or criminal check results.
5. **Medical File**: Medical records including any medical information or drug and alcohol test results.

6. Upon discharge of employment, the employee’s entire personnel file shall be placed in the “Inactive Personnel Files.”

7. All of these files are confidential FPT property and can only be accessed through proper process by authorized FPT Human Resources representatives.

**B. Release of Employee Information**

1. At termination of employment, files may be combined and retained under the applicable document retention policy.

2. Access to employee personnel information is restricted in order to protect the employee and FPT.

3. With respect to employment verification or reference requests, generally only the following information shall be released to third party inquirers: job title, verification of employment dates and rate of pay. Any employee or former employee who wants further information released to a third party must provide Human Resources with a signed and specific written authorization and release. Where appropriate, Human Resources will then arrange for the release of the information.

4. The term “third party” in this provision does not include other entities of the Tribe. When necessary for a legitimate business reason, information regarding employees at any Tribal entity may be shared confidentially on a need to know basis with authorized management and Human Resources staff.

**C. Employee Review of Records**

1. After giving reasonable notice, an employee may review the employee’s personnel files in the presence of designated Human Resources personnel at a mutually convenient time and place. Each employee may also receive a copy of the employee’s personnel files at the employees’ own expense and with approval of the Human Resources Director.

2. Management desk files, pre-employment files, investigative and other files relating to an employee maintained by FPT may not be reviewed without special permission from Human Resources. Personnel records are the property of FPT.

**D. Address and Other Personnel Status Changes**

As soon as possible, to keep the files accurate, employees must provide notice to Human Resources of any change in an employee’s name, address, telephone number, number of dependents, emergency contact information or other required personal information. In
addition, the employee shall notify Human Resources when the employee completes job-related education courses or earns degrees.

**E. Falsification, Omission, Misrepresentation of Information**

Any information provided to FPT, including data on applications and licensing forms, must be complete and fully accurate. FPT may check at any time some or all of the information provided by an employee. An employee’s employment with FPT may be terminated if false or misleading information has been provided by the employee or if it is discovered that an employee has failed to disclose pertinent information to FPT.
SECTION 18: DRUG, ALCOHOL, & CONTROLLED SUBSTANCES

A. General Policy Statement
The Fort Peck Tribes recognize that its well-being and future success is dependent on the physical, mental, and emotional health of its Employees. The Tribes have a vital interest in maintaining a safe, healthy, and efficient working environment. The possession, use, or sale of alcohol, illegal drugs, or controlled substances in the workplace poses an unacceptable safety risk to not only the user, but other Employees, contractors, and officials of the Tribes.

B. Definition of Terms

Alcohol: Alcohol is beer, wine, and all forms of distilled liquor containing ethyl-1 alcohol. References to alcohol include any beverage, mixture or preparation containing ethyl-1 alcohol.

Approval Officer or Designates: A person designated by the Tribal Executive Board to implement this policy. The Approval Officer shall complete training in the detection and evaluation of the signs of drug impaired behavior on an annual basis from an individual or entity with appropriate professional and educational experience.

Collection Site: A place designated by the Tribal Executive Board where individuals provide a specimen of their urine to be analyzed for the presence of drugs and/or alcohol.

Drug Test: A medical analysis of a urine sample for the presence of drugs and/or alcohol.

Employees: All Employees, contractors, elected officials, and appointed officials of the Fort Peck Tribes.

Illegal Drugs: Substances listed in Title III & 405 of the Comprehensive Code of Justice but does not include any chemical substance prescribed by a licensed physician and used by the individual to whom it was prescribed and in accordance with the prescription.

Medical Review Officer: A physician who is selected by the Tribal Executive Board to review the test results and interpret them. The MRO shall examine positive results for possible alternate medical explanations.

Negative Test Result: A test result that indicates an Employee’s urine sample does not contain illegal drugs and/or alcohol.

Positive Test Result: A test result that indicates an Employee’s urine sample contains illegal drugs and/or alcohol.

Random Alphabetized Testing: A system of randomly selecting Employees for drug testing, approved by the Tribal Executive Board, whereby each Employee has the same chance of being
C. **Prohibited Conduct and Employment**
   1. Employees are prohibited from:
      a. Possessing, selling, trading or offering for sale illegal drugs or otherwise engaging in the use of illegal drugs and alcohol on the job;
      b. Reporting to work under the influence of illegal drugs or alcohol; and
      c. Using prescription drugs illegally. However, nothing in this policy precludes the appropriate use of legally prescribed medication.

   2. The Tribes shall furnish a copy of the Drug-Free Workplace Policy Statement to all Tribal Employees.

   3. Employees must comply with this policy as a condition of employment.

D. **Reporting Violations and Convictions.**

   1. Employees must notify the Approval Officer in writing of any conviction or a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.

   2. The Tribes will provide written notice of any Employee's conviction or violation of this policy to the funding agency, in writing, within ten (10) calendar days after receiving notice from an Employee or otherwise receiving actual notice of such conviction.

   3. Any Employee convicted of a drug-related offense occurring in the workplace or found in violation of this policy involving the use of illegal drugs shall be subject to the disciplinary action as provided in this policy.

   4. Fort Peck Tribal Health shall maintain any Employee records produced under this Section in accordance with this policy.

E. **Drug-Free Awareness Program**

   1. **Policy Statement**
      The Fort Peck Tribes recognized that addiction to drugs is an illness and whenever possible, a drug abuse problem is best handled through treatment rather than punishment.

   2. **Drug-Free Awareness Program and Treatment Policy**
      In conjunction with the Drug-Free Workplace Policy, the Fort Peck Tribes'
Drug-Free Awareness Program provides the following:

a. On a quarterly basis, the Tribal Office of Human Resource Management and Tribal Health staff will conduct, during Employee staff meetings, an education program to Employees about the dangers of drug use in the workplace.

b. Any Employee may, with the Program Director’s permission, take leave without pay to seek professional treatment for drug related problems.

   i. An Employee's decision to voluntarily seek professional treatment in a professional treatment program will be documented in accordance with this policy.

   ii. Any Employee taking leave pursuant to this policy for a drug related problem shall upon returning to work be subject to follow-up testing in accordance with this policy.

F. Fort Peck Tribes’ Employee Drug Testing Program Policy
The Fort Peck Tribes are committed to maintaining a high level of public confidence in our ability to deliver services safely, efficiently and competently. The use of illegal drugs by Tribal Employees is inconsistent with these goals and will not be tolerated. The Tribes strongly believe that instituting a drug testing program will serve its goal of maintaining a workplace free of illegal drugs. The Tribes’ Employee Drug-Testing Program shall be conducted in accordance with the policies and procedures set forth herein.

G. General Testing Procedures
1. Unless otherwise stated, the procedures set forth in this policy shall apply to all Employees subject to drug and alcohol testing.

2. The Approval Officer shall serve any notice required under this Chapter in accordance with Title IV, Section 102 (b), (d) of the Comprehensive Code of Justice.

3. The Approval Officer shall serve written notice to any Employee required to be drug tested under this policy to the Employee in person. The notice shall indicate the time and place to report for a drug test and inform the Employee of the basis for the test under this policy and the right to offer documentation regarding drug use prior to testing.

4. Upon receiving notice from the Approval Officer to report for a drug test, an Employee may prior to testing, provide the Approval Officer with a list of all prescriptions and non-prescription drugs he/she has used and explain the circumstances surrounding the use of such drugs. The Approval Officer shall forward this documentation to the Medical Review Officer.
5. Compliance with the notice to report for drug testing under this policy shall take precedence over any other duties to be performed at the time designated for testing.

6. The Tribal Executive Board shall select the collection site for drug tests. The name and address of the collection site will be included in the Approval Officer's notice to an Employee required to report for testing.

7. The Tribal Executive Board shall select the laboratory that will perform the drug testing.

8. The Approval Officer may require an Employee to provide the urine sample in the physical presence of a medical/clinical staff member, if the Approval Officer has reasonable suspicion that the Employee has previously altered or tampered with a urine sample.

9. An Employee may be required to submit to re-testing if the original sample is not sufficient to permit the laboratory to conduct a complete analysis or if the analysis indicates evidence of dilution of the sample or other problems. The following procedures shall be followed in such cases:
   a. The Employee will be given 24 hours written notice of the problem by the Approval Officer.
   b. The notice shall indicate the time and date of the test, and that refusal to submit to re-testing will result in discharge of the Employee.
   c. After two samples indicating evidence of dilution, an Employee will be discharged.

H. Record Retention

1. The Fort Peck Tribal Health shall maintain for five (5) years records of drug test results and rehabilitation for each Employee, separate from other Employee records. Documents to be maintained include:
   a. Notice of both positive and negative results by Medical Review Officer.
   b. Notice of negative results by Approval Officer.
   c. Written material justifying reasonable suspicion testing or evidence that an individual may have altered or tampered with a specimen, and
d. Other documents the Approval Officer deems relevant.

2. Any Employee tested pursuant to this policy has the right to obtain copies of any records relating to his/her drug test by submitting a written request to the Approval Officer.

I. Confidentiality of Test Results
   1. All test results will be held in the utmost confidence.
   2. The laboratory shall report positive drug results only to the Medical Review Officer.
   3. After the Medical Review Officer has verified a positive drug test result in accordance with this policy, the Medical Officer shall give written notice of the verified positive result to the Approval Officer. The Approval Officer shall provide notice to the HR Office of the verified positive result.
   4. The HR Office shall give the Employee written notice of the positive or negative test result.
   5. The Approval Officer shall notify the Program Director and the Chairman of all positive test results. The Employee shall be informed that the Program Director and Chairman have been notified.
   6. The collection site, laboratory, the Medical Review Officer, and the Approval Officer shall not disclose the test results to any source except as provided in this policy, without the tested Employee's written consent.

J. Procedure for Verifying a Positive Test Result
   a. The Medical Review Officer shall review and confirm a positive test result prior to providing a written report to the Approval Officer. The Medical Review Officer shall examine alternate medical explanations for any positive test result. This examination may include a medical interview of the Employee, a review of the Employee's medical history, and review of any other relevant medical facts.
   2. The Employee will be provided with an opportunity to explain the positive test result in writing. The Medical Review Officer shall determine whether the Employee's explanation provides a legal basis for the positive test result. If the Medical Review Officer confirms that a legal basis for the positive result exists, he/she shall report the result as negative.

K. Disciplinary Action
   1. Except as otherwise provided in this policy, Employees:
a. Who test positive for illegal drugs shall be suspended without pay for ten (10) working days and required to enroll in a rehabilitation program.

b. Who violates the Drug-Free Workplace Policy may be suspended or discharged depending on the facts and circumstances surrounding the violation.

c. Who are convicted of a drug related offense under Tribal, federal or state law shall either:
   i. Be suspended without pay for not more than six (6) months or less than three (3) months depending on the facts and circumstance surrounding the offense; or
   ii. Be discharged.

2. An Employee required to seek rehabilitation shall provide the Approval Officer with proof of entrance into a rehabilitation program within ten (10) days of suspension.

3. An Employee required to seek rehabilitation must provide the following to the Approval Officer before returning to work:
   a. A written certification signed by an authorized representative confirming that the Employee has completed the rehabilitation program; and
   b. Verification of enrollment in an aftercare program approved by the rehabilitation facility in consultation with the Program Director.

4. Disciplinary action shall be taken by the Program Director or if the Employee is a Program Director, the Chairman in consultation with the Approval Officer.

5. Good cause for discharge exists, pursuant to this policy, if an Employee:
   a. Fails or refuses to report, or submit to, for a required drug or alcohol test;
   b. Refuses to enroll in a rehabilitation program;
   c. Fails to complete a rehabilitation program after testing positive for illegal drugs;
   d. Has tampered with, diluted, or altered two urine samples;
   e. Has been convicted of a drug related offense under Tribal, Federal, or State law.
6. An Employee discharged for a violation of this policy shall not be eligible for Tribal employment, or work for any Tribal program under contract or other employment for six (6) months after the date of discharge. If rehired, the individual shall be subject to follow-up drug testing. If Employee tested positive for methamphetamine and was discharged, he/she will not be eligible for employment for one (1) year.

7. The Program Director, or if the Employee is a Program Director, the Chairman shall serve the offending Employee with a written notice of the disciplinary action imposed. The notice shall be served during normal business hours. The notice shall:
   a. Indicate the date, hour, and minute of service on the Employee; and
   b. Explain the disciplinary action imposed.

8. Any disciplinary action imposed shall take effect immediately.

9. All records relating to an Employee's rehabilitation shall be confidential.

10. Any Employee who tests positive for drugs and is disciplined shall be subject to follow-up testing, pursuant to this policy.

L. Voluntary Testing Program
   1. Tribal Employees are encouraged to volunteer to be tested for illegal drugs. Employees volunteering for testing shall be tested as soon as possible.
   
   2. Prior to participating in voluntary testing, an Employee must certify in writing that he/she freely consents to the test with full knowledge that a decision not to volunteer will not jeopardize in any way the employment status of the Employee or be interpreted as an admission of illegal drug use.
   
   3. Any Employee who tests positive under this provision, prior to being identified through other means, shall be subject to the disciplinary action set forth in this policy.
   
   4. All volunteers shall remain participants in the random drug testing program unless they notify the Approval Officer in writing of their intent to withdraw from voluntary testing at least 48 hours prior to a scheduled test.
   
   5. An Employee's participation in voluntary testing under this provision does not prevent the Tribes from conducting additional drug testing of that Employee as provided in this policy.

M. Random Alphabetized Testing of Employees
   1. Use of illegal drugs is a serious problem on the Reservation, including among Tribal Employees. Therefore, the Executive Board designated all Tribal positions as "safety-
sensitive" and subject to the Random Alphabetized Program in this Section and the Post-Accident or Incident Procedures in this policy. The Tribes shall conduct randomized drug testing of all Employees.

2. Random alphabetized testing will be conducted in a manner to ensure that all Employees will be subjected to at least one drug test per year.

3. Each Employee receiving written notice that he/she was randomly selected to be tested shall report to the collection site at the date and time specified in the notice.

4. To ensure that the selection process is random, and the appropriate Employees are tested, the Approval Officer and Verification Officer, along with the Tribal Chairman/Vice-Chairman will sign a letter certifying the list of Employee names that was randomly generated.

5. An Employee served with notice to report for the testing may obtain a deferral from testing if the Approval Officer finds a compelling reason that necessitates a deferral on the grounds that the Employee is not suspected of drug use and one of the following applies:

   a. The Employee is on leave status (annual, sick, administrative or leave without pay); or

   b. The Employee is traveling or about to embark on travel scheduled prior to an unannounced test.

N. Reasonable Suspicion Testing

1. Any Tribal Employee may be required to submit to a drug and/or alcohol test based on reasonable suspicion that the Employee's work performance is impaired by drug use. The facts giving rise to reasonable suspicion must be related to conduct or activities that occur while the Employee is on duty.

2. Reasonable suspicion is a determination, supported by specific and particularized facts and reasonable inferences from those facts, that an Employee possesses or is under the influence of alcohol or illegal drugs while on duty.

3. Reasonable suspicion of drug use may be supported by:

   a. Evidence of specific, personal observations concerning job performance, appearance, behavior, or speech;
b. Direct observation of drug or alcohol use, physical symptoms of being under the influence of a drug or alcohol, admission, or any combination of the foregoing; or

c. Newly discovered evidence that the Employee has tampered with a previous drug test.

4. Reasonable suspicion cannot be based on unsupported rumors, hunches, or anonymous reports.

5. The Approval Officer shall immediately prepare a written statement of the grounds for reasonable suspicion of an Employee's illegal drug use and deliver it to the Verification Officer.

6. The Verification Officer shall immediately but not less than two hours after receipt of the statement agree or disagree with the reasonable suspicion determination, and so notify the Approval Officer.

7. Immediately upon receiving notice of agreement by the Verification Officer, the Approval Officer shall serve notice on the Employee indicating the time and place to report for the drug test.

8. Any Tribal Employee having a reasonable suspicion that another Employee is under the influence of or using illegal drugs or alcohol while on duty shall immediately, or as soon as practical, report such drug or alcohol use to the Approval Officer. The report must be in writing and shall contain the name of the Employee, the Tribal Program, the time, date, nature and extent of the drug use.

O. Post-Accident or Incident Testing of Employees

1. Pursuant to Resolution No. 2285-97-2, designating all Tribal Employees as safety sensitive. Any Employee who apparently causes an on-the-job accident or incident shall be required to submit to a drug test.

2. This section applies to an accident or incident which results in:

   a. A fatality;

   b. A serious personal injury, including a condition requiring hospitalization or immediate medical attention away from the scene of the accident; or

   c. Property damage in excess of $5,000.
3. The Approval Officer shall serve Employees required to submit to a drug test under this section with written notice of the time and place to report for testing.

P. Follow-Up Testing

1. An Employee who tests positive for drugs and is disciplined or discharged and rehired, shall be subject to unannounced testing for a period of one year from the date of the positive test result.

2. All Employees subject to Follow-Up Testing shall be tested each time random drug tests take place and shall be tested in addition to individuals subject to random testing at that time.

3. The Tribes will not accept or consider drug tests completed by entities other than Tribe.

SECTION 19: WORKPLACE/SEXUAL HARASSMENT & BULLYING

A. Policy

FPT is committed to providing a work environment that is free from all forms of discrimination and conduct that can be considered harassing, coercive, or disruptive. Actions, words, jokes and/or comments based on an individual’s race, color, religion, sex, sexual orientation, age, disability or national origin, will not be tolerated. FPT provides ongoing sexual harassment training to ensure employees the opportunity to work in an environment free of sexual and other unlawful harassment.

B. Definition of Terms

*Business Day:* All days except legal holidays.

*Complaint:* A written statement or letter signed by the complainant setting out the facts in support of a charge of workplace harassment, sexual harassment, or bullying.

*De Novo:* Means hearing the complaint anew as if it had not been previously considered.

*Director:* Means the Director of the Human Resource Department.

*Employee:* A person employed by FPT who is on the tribal payroll, other than Constitutional officers of the Tribes.

*Grievance Committee:* The Committee established by the Tribal Personnel Policies and Procedures.

*Retaliation:* Threats, direct or indirect as by suggestion or inference, that an employee’s job, advancement, work assignments, wages, benefits or rights may be lost, diminished or
impaired, unless the employee submits to the demands of the offender.

**Review Panel:** A panel of three (3) persons, not all of the same gender, to review or hear workplace harassment, sexual harassment, or bullying complaints in certain circumstances.

**Supervisor:** Any employee to whom the complainant is subordinate.

**Work Place:** The place or places and environments where an employee performs all matters relating to the employee’s work assignments.

C. **Workplace Harassment Policy**
   1. FPT has established a zero-tolerance policy for workplace harassment to promote a harassment-free environment for all employees and the general public.

   2. Promoting teamwork and excellence demands a working environment that is free from discrimination, harassment, bullying, or other intimidating behaviors. FPT is committed to providing a work environment that is free from all forms of conduct that can be considered harassing, coercive, or disruptive.

   3. The first step in preventing harassment is understanding what it is and what it means in the workplace.

   4. The following behaviors are expressly prohibited:
      
      - Unwelcome conduct, whether verbal or physical, that is based on a person’s status such as race, color religion, sex, national origin, disability, sexual orientation or gender identity, veteran status, marital status, or other federally protected status.
      - Abusive language, physical aggression, deliberately causing injury or threatening to do so, or any disorderly conduct or malicious disturbance, including but not limited to intimidation or harassment of others.

D. **Sexual Harassment Policy**
   1. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, as well as other physical, verbal, or visual conduct based on sex when:
      
      - Submission to the conduct is an implicit or explicit term of employment or employment related decisions;
      - Submission to or rejection of such conduct by an individual is used as the basis for an employment decision; and/or
      - The conduct has the purpose or effect of unreasonably interfering with any individuals’ work performance by creating a hostile, offensive, or intimidating working environment.
2. This definition includes gender-based harassment of a person of the same sex as the harasser.

3. Examples of prohibited conduct include, but are not limited to:
   - Unwelcome sexually suggestive comments or sounds;
   - Unwelcome sexual flirtation;
   - Unwelcome touching;
   - Unwelcome advances or propositions;
   - Unwelcome jokes of an offensive nature;
   - Unwelcome slurs or other verbal, graphic, or physical conduct;
   - Any display of offensive pictures, articles, books, magazines, photos, or cartoons in printed, electronic, or other format;
   - The authoring, forwarding, viewing, posting, or sending of material is prohibited under FPT’s policies, except as required to complete an authorized job responsibility such as a law enforcement or investigation functions.

E. Harassment/Bullying Policy

1. The purpose of this policy is to communicate to all employees, including supervisors and managers that FPT will not in any instance tolerate harassing or bullying behavior. Employees found in violation of this policy will be disciplined, up to and including termination.

2. **Workplace Bullying** is repeated inappropriate behavior, either direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment. Such behavior violates FPT’s Standards of Conduct which clearly states that employees will be treated with dignity and respect.

3. Bullying may be intentional or unintentional. However, it must be noted that when an allegation of bullying is made, the intention of the alleged bully is irrelevant and will not be given consideration when meting out discipline. As in sexual harassment, it is the effect of the behavior on the individual that is important.

4. FPT considers the following types of behavior examples of bullying:
   
   a. **Verbal bullying** - Slandering, ridiculing or maligning a person or his or her family; persistent name calling that is hurtful, insulting or humiliating; using a person as the butt of jokes; abusive and offensive remarks.
   
   b. **Physical bullying** - Pushing, shoving, kicking, poking, tripping, assault or threat of physical assault, damage to a person’s work area or property.
   
   c. **Gesture bullying** - Nonverbal threatening gestures; glances that can convey threatening messages.
   
   d. **Exclusions** - Socially or physically excluding or disregarding a person in work-related activities.
e. **Other Examples** - In addition, the following examples may constitute or contribute to evidence of bullying in the workplace:

- Persistent singling out of one person.
- Shouting or raising voice at an individual in public or in private.
- Using verbal or obscene gestures.
- Personal insults and use of offensive nicknames.
- Public humiliation in any form.
- Constant criticism on matters unrelated or minimally related to the person’s job performance or description.
- Ignoring or interrupting an individual at meetings.
- Public reprimands.
- Repeatedly accusing someone of errors that cannot be documented.
- Deliberately interfering with mail and other communications.
- Spreading rumors and gossip regarding individuals.
- Encouraging others to disregard a supervisor’s instructions.
- Manipulating the ability of someone to do his or her work (e.g., overloading, underloading, withholding information, assigning meaningless tasks, setting deadlines that cannot be met, giving deliberately ambiguous instructions).
- Inflicting menial tasks not in keeping with the normal responsibilities of the job.
- Taking credit for another person’s ideas.
- Refusing reasonable requests for leave in the absence of work-related reasons not to grant leave.
- Deliberately excluding an individual or isolating him or her from work-related activities, such as meetings.
- Unwanted physical contact, physical abuse or threats of abuse to an individual or an individual’s property (defacing or marking up property).

5. In addition to covering employees, FPT’s Standard of Conduct Policy extends to members of the general public. This policy applies to both work-related settings and activities outside of the workplace.

F. **Reporting of Harassment**

1. All employees who experience or witness any potential unlawful harassment or discrimination must report it immediately to the Human Resource Director (Director) in a written signed complaint. If the charge is against the Director, or any member of the Grievance Committee, the complaint shall be filed with the Secretary of the Executive Board. The complaint may be in the form of a letter, or on a form provided by the Director. The complaint shall supply in detail the basis for the charge with specific attention to dates, time, identity of person or persons.

2. Employees making good faith reports of potential issues will not be subject to any
form of retaliation or reprisal, regardless of whether the allegation proves unfounded. Any employee who engages in any form of retaliation is subject to disciplinary action up to and including termination of employment.

3. All allegations of unlawful harassment and discrimination will be promptly investigated. To the extent possible, employee confidentiality and that of any witnesses and the alleged harasser will be protected against unnecessary disclosure. When the investigation is completed, FPT will inform critical parties of the outcome of the investigation to the extent possible under applicable law and policy.

4. Any employee found engaging in harassment, bullying or discrimination will be subject to disciplinary action up to and including termination of employment. Penalties for violation of this policy include:

   a. Where an investigation concludes that an employee has committed an act of harassment or bullying, that employee shall be subject to disciplinary action up to and including termination.
   b. Providing false information during a harassment investigation is grounds for disciplinary action up to and including termination.
   c. A supervisor’s failure to adequately and timely respond to a harassment matter of which the supervisor is aware or reasonably should be aware, or failure to discipline an employee found to have violated this policy, will result in disciplinary action up to and including termination.

G. Duties of the Director
The Director shall maintain under security special files for complaints. Promptly upon receipt of a complaint, the Director shall investigate the subject of the complaint by interviews, conferences, inquiry and production of evidence, affidavits or testimony of the person or persons charged by the complaint and persons other than the complainant with knowledge of facts concerning the complaint.

H. Complainant’s Right to Representative
A complainant shall have the right to be accompanied by a representative or person of the complainant’s choice other than a member of the Executive Board, at any conference or hearing under this procedure.

I. Director’s Decision
Within ten (10) business days of the receipt of a complaint, the Director shall prepare and issue a decision and serve the same upon the complainant. The decision shall list the findings of fact and the Director’s decision sustaining or rejecting the complaint in whole or in part. If the decision is for the complainant, the decision shall state the sanctions or penalty to be imposed on the offender, guided by the penalties prescribed in this manual or such other sanction or penalty, such as a fine, as the Director deems appropriate.
J. Limited Appeal of the Director’s Decision
A complainant aggrieved by the Director’s decision, may within five (5) business days of receiving the Director’s written decision, file with the Secretary of the Tribes a written request that the Chairman appoint a panel to review the decision and enter the appropriate decision. Whether a panel should be appointed, is solely in the discretion of the Chairman, except as provided below.

K. Complaints Against the Director or Member of the Grievance Committee
If the Director or any member of the Grievance Committee is charged with sexual harassment, the complainant shall file the complaint with the Secretary of the Tribes. The Chairman then must appoint a review panel to investigate and render a decision on the complaint.

L. Composition of the Review Panel
The Panel shall consist of three members, not all of one gender, appointed by the Chairman. The members appointed may be from within the Tribal Executive Board, or employees of the Tribes, or other neutral persons from the community, as the Chairman in his discretion deems appropriate. Members of the Grievance Committee and the Director shall not be eligible to serve on a Panel. Each Panel shall select from its own members a presiding officer.

M. Panel’s Scope of Authority
1. A Panel, in its discretion, is empowered to hear the case de novo or by review of the findings and recommendations of the Director, to determine whether the findings and recommendations are supported by the preponderance of the evidence. All proceedings shall be conducted in closed session and in as complete confidence as possible.

2. If a Panel determines to hear the case de novo, it shall proceed as speedily as possible but in not less than 15 days after appointment of the Panel. A Panel may take sworn testimony and receive other evidence. For the purposes of carrying out the duties of the Panel, the presiding officer of the Panel is authorized to administer the oath.

3. All hearings de novo shall be reported stenographically or by recording.

4. Within ten (10) business days after hearing a case de novo, the Panel shall submit to the Chairman, its final decision, including findings of fact and a determination sustaining or rejecting the complaint. If the complaint is sustained, the Panel shall order sanctions in accordance with this Policy.

SECTION 20: TRAINING AND CAREER DEVELOPMENT

A. Objective
This policy is established to assure consistent approval of training and career development requests which follow the intent of the Tribe to provide skill building and enhancement for
tribal employees. Training can be in the form of a workshop, formal college course work, correspondence courses, and/or conferences.

Training is the process of providing for, making available to, and placing or enrolling an employee in a planned, prepared, and coordinated program, course, curriculum, system or routine of instruction or education in order to increase knowledge, proficiency, ability, skill, experience, and qualification in a field which is or will be directly related to their performance of official duties.

In an effective organization, training and employee developmental needs must be identified and addressed. Developing, in this instance, means increasing the capacity to perform through training, giving assignments that introduce new skills or higher levels of responsibility, improving work processes, or other methods. Providing employees with training and developmental opportunities encourages good performance, strengthens job-related skills and competencies, and helps employees keep up with changes in the workplace. It is with these elements in mind, that the Fort Peck Tribes established the following process which will foster training and career development activities for its employees in manner, which is cost-efficient, uniform, and equitable.

B. Training Priorities

1. First Priority - the training of employees in order to obtain or maintain licensor or certification, or completion of specific training identified as a contract/grant requirement.

2. Second Priority - the training of employees to update or obtain skills necessary for the operation of the individual employee’s job at all levels and to carry out the mission of the Fort Peck Tribes. This type of training must be identified in the employee’s Individual Development Plan (IDP) in order to be approved.

C. Individual Development Plan

1. The annual Individual Development Plan (IDP) is completed by the employee and the immediate supervisor by the beginning of each fiscal year (October 1st regardless if the program is on a different funding cycle). All tribal employees must have an IDP in place prior to any training to be approved. The plan provides an outline of all training and developmental activities proposed to prepare the employee to perform required functions of their position.

2. The plan can also be used to identify the training that will provide the employee with skills and knowledge required for official duties which the employee may not be performing in his/her current position but which the employee may reasonably be expected to perform in the near future. The plan identifies courses/training needed, sources of the training, period of training, estimated costs, and tentative training completion date. This serves as justification for providing training as it relates to the employee’s official duties.
3. Preparation of a plan does not guarantee or commit the Fort Peck Tribes to carry out all activities listed in the plan. It is a statement of what employee development activities are needed to reach stated objectives. The form to be used for all employees is identified as Exhibit A.

D. Annual Training Priority List (ATPL)
After Individual Development Plans (IDP’s) have been completed for all employees, the Human Resource Office must prepare an Annual Training Priority Listing (ATPL). The ATPL is used to consolidate all IDP’s and to prioritize training needs for the coming year. Requests for training will not be approved if they do not appear on the ATPL, unless it is for priority training which could not have been foreseen and for which the Tribal Chairman is willing to make a substitution for on the ATPL.

E. Short-term Training
Short-term training is a full-time training course of 90 days or less. Temporary employees are not eligible for short-term training unless the program will be adversely affected without the training. The training nomination form must include a written justification by the program director for such training and the approval will depend on program needs and available funds.

F. Long-Term Training
1. Long-term training is training of over 90 days which prepares an employee to obtain a certificate or degree in a field directly related to the performance of official duties. In order to assure equitable and justifiable expenditure of tribal, contractual or grant funds, and/or official work time for training purposes, the following requirements must be considered when deciding such training for employees:

   a. All training must be directly related to the performance of official duties by the employee being trained and for the purpose of increasing that employee’s knowledge and skills in the performance of official duties.

   b. Long-term training requires the employee to sign and enter into a “written contract” with the Fort Peck Tribes as outlined in Exhibit B.

   c. Any employee approved for long-term training, as defined above, must have a minimum of three (3) years of current continuous employment with the Fort Peck Tribes. The exception to this requirement is for law enforcement personnel attending an approved law enforcement program.

   d. The availability of funds must exist and be specifically budgeted for training purposes. Such funding should be considered “gap” funding and must only be authorized based on financial need as determined by the educational institution. Other funding sources such as guaranteed student loans, PELL
grants, Tribal Higher Education grants, scholarships, etc., must be applied before funding will be authorized.

G. Training Nomination and Authorization Form (HR-350)

1. The employee must prepare and submit a HR-350 to his/her supervisor when requesting training at least two (2) weeks before the training is scheduled. All items on the form must be completed in accordance with instructions. Incomplete or incorrect nominations will be returned for correction.

2. If the training requested is categorized as long-term training, the written contract must also be submitted and signed. A copy of the training brochure/announcement must be attached to the Training Nomination and Authorization Form, HR-350 (Exhibit C).

3. The employee shall make his/her own arrangements for acceptance and admission to the training courses as well as travel arrangements after the training request has been authorized by the Tribal Chairman.

4. When requested, the employee pays any registration fees and/or tuition and submits a voucher for reimbursement upon completion of the training. The employee must notify the supervisor of any cancellation or change in the training request.

5. The supervisor reviews all training requests for completeness, assures the training is related to the employee’s official duties, and signs as the initiating official if he/she concurs with the employee’s request for training. The training form is then submitted to Human Resources for review. In the event the employee does not complete the training course, or it is canceled, the supervisor will require the employee to submit a written memorandum explaining the circumstances that prevented the employee from completing the training or the cancellation.

6. Human Resources maintains a log of all HR-350’s received for the purpose of tracking progress, late actions, and compiling reports. The designated personnel specialist reviews the training request for completeness and compliance with the employee’s Individual Development Plan (IDP) and the Annual Priority Training List (APTL), signs as the recommending official, obtains the approval signature of the Finance Officer, and the final authorization by the Tribal Chairman. After authorization of the training request by the Tribal Chairman, the Human Resource Office will record it in the log and distribute the copies of the HR-350 as follows: Original - Official Personnel File; Yellow Copy - Program; Pink Copy - Employee. Upon completion of the training the employee must return the pink copy of the HR-350 to the Human Resource Office with a copy of a training certificate, transcript, or other documentation to substantiate attendance and completion.

H. Paid/Recordable Time

1. The following shall be recorded as time worked on the employee’s timesheet.
a. Time spent traveling as a passenger on an airplane, train, boat, bus or automobile, during regular working hours on any day (Monday through Friday or the corresponding hours on Saturday or Sunday), minus any travel from or to the employee’s residence described below.

b. All time spent traveling as a driver (minus any home-to-work or work-to-home travel described above); except that if the employee was offered public transportation and requests and receives permission to drive his or her own car instead, FPT may count as hours worked either the time spent driving the car or the time the employee would have had to count as hours worked during regular working hours had the employee used the public conveyance.

c. Flight delay that requires remaining at the airport.

I. Responsibilities of Travelers

1. Employees in travel status conducting Tribal business are representatives of the Fort Peck Tribes and, as such, are expected to maintain a high level of professionalism. While on travel status, each employee is to present themselves in a proper manner at and during all functions related to the travel. Employees are responsible for:

   a. Conducting themselves at all times in a manner that will not reflect discredit on the Tribe.

   b. Being familiar with Tribal travel regulations before embarking on travel.

   c. Exercising the same care in incurring expenses and accomplishing the purposes of the travel that a prudent person would exercise if traveling on personal business. Excess costs, circuitous routes, delays, or luxury accommodations unnecessary or unjustified in the performance of official Tribal business travel are not acceptable.

   d. Paying any excess costs and any additional expenses incurred for personal preference or convenience.

   e. Returning as promptly as possible to either the workplace or official residence when the Tribal business is completed.

   f. Securing prior authorization for travel as required. Failure to do so will result in disciplinary action up to and including termination.

   g. Preparing the Trip Report/Travel Expense Voucher and providing appropriate receipts and documentation as required.
2. This policy does not apply to an employee’s voluntary attendance outside of normal working hours in formal or informal educational instruction or instruction, which generally leads to, improved job performance. Although FPT generally encourages employees to improve upon job skills and promotional qualifications, such activities will not be subject to this policy regarding reimbursement or compensation for educational endeavors, unless FPT authorizes your participation or attendance.

J. Penalties

1. If the employee is on-site at the training location and cannot attend due to illness, he/she must immediately contact their supervisor, Program Director, or Human Resources and request approved sick leave.

2. Time in training during duty hours is official duty time. It is not administrative, education, or any other form of leave. Any employee who fails to attend a training session during duty time is absent without approved leave (AWOL) and may be liable for reimbursement of training and travel funds to the Tribes and may also be subject to disciplinary action unless the leave has been granted.
SECTION 21: PERFORMANCE MANAGEMENT SYSTEM

A. Purpose
The purpose of this chapter is to provide a performance management system for all Tribal employees that enables each employee to understand and contribute to the objectives of their department and the Tribes.

It is the policy of the Fort Peck Tribes to evaluate employee performance in a manner that that allows for effective and clear communication between managers and employees about department and Tribal government goals and expected outcomes.

B. Definition of Terms

Annual Performance Evaluation Period: Each year of employment commencing on the annual anniversary date of the start date for his/her position.

Performance Element: A duty or responsibility of an employee’s position included in the employee’s job description.

Performance Plan: A plan for the employee’s performance that includes all performance elements and the acceptable standards of performance for each element.

Performance Standard: Acceptable performance for a performance element that must be met to achieve an “Acceptable” rating for the performance element.

Progress Review: Review of an employee’s performance plan and communication with the employee about his/her performance relative to the performance elements and standards. A progress review is separate from the annual performance evaluation.

Unacceptable Performance: Performance of a performance element that fails to meet the expected standard as designated in the employee’s performance plan.

Performance Improvement Plan (PIP): The document that identifies the element(s) for which performance is not acceptable. This plan will identify acceptable performance, the length of time allowed for improvement, the type of assistance the supervisor will provide and possible actions that may result if performance is not improved.

C. Coverage
This policy applies to all permanent (full-time or part-time) employees.

D. Responsibilities
1. The Tribal Chairman through the Tribal Executive Board shall:
   a. Review and approve the performance evaluation process and any forms to be
used within the organization;

b. Delegate authority to implement the evaluation process to the Human Resources Director and Program Directors/Supervisors;

c. Ensure that Tribal goals and priorities are reflected in employee performance plan development.

2. The Tribal Chairman shall establish performance plans and conduct all performance evaluations for all Program Directors. The Tribal Executive Board Committee Chairpersons shall be present for the annual performance evaluations of Directors of programs that such TEB committees oversee.

3. The Tribal Human Resource Director shall:

   a. Ensure that the performance evaluation process is fully implemented including completion of all employee performance plans, progress reviews and year-end performance evaluations in a timely;

   b. Provide orientation and training for supervisors and employees relevant to development of performance plans, progress reviews, Performance Improvement Plans (PIP) and year-end evaluations;

   c. Assure that Tribal goals and objectives are reflected in the performance plans;

   d. Actively support managers and supervisors by providing guidance and assistance as necessary or as requested;

   e. Maintain files of all required performance appraisal documents.

4. Supervisors shall:

   a. Develop performance plans, with employee input, based on organizational goals and the requirements of the employee’s position description, within 30 calendar days of the beginning of the appraisal period;

   b. Monitor performance to identify progress and/or deficiencies, conduct and document progress reviews, modify performance plans when warranted, conduct annual performance evaluations, maintain performance records, and to provide employee verbal and written feedback;

   c. Prepare a Performance Improvement Plan (PIP) when the employee is at an unacceptable level of performance;
d. Secure approval of the annual performance evaluation from the next higher-level supervisor;

5. Second Level Supervisor or Program Director, if applicable, shall:
   a. Review and approve final performance evaluations that are rated as “Unacceptable”.

6. Employees shall:
   a. Provide input in the development of his/her performance plan;
   b. Ensure he/she understands expectations in the performance plan and/or a Performance Improvement Plan;
   c. Communicate changes in circumstances or conditions that may affect performance; and

E. Performance Plan
   1. Supervisors and Employees shall develop Performance plans with performance elements and standards for acceptable performance of each element within 30 days of either the beginning of the appraisal period for current employees, or when an employee begins a new position that will last at least 120 days. This provision applies to employees transferred into positions and when temporarily promoted.

   2. Each performance plan will consist of 2-6 critical performance elements. The performance elements will be derived from job duties and responsibilities as described in the employee’s position description.

   3. For supervisory employees, the performance elements will include mandatory elements regarding supervision/human resource management and budgeting.

   4. A performance standard that describes “Acceptable” performance for each element must be included in the performance plan. Standards should include specific information to measure performance and may include timeliness, quality of performance, and accuracy. The “Acceptable” standard will describe the minimum level of performance to accomplish the performance element. Employees must meet the standard expected for all of performance elements to achieve an overall “Acceptable” rating either in a performance plan review or in the annual performance evaluation.

   5. The supervisor and employee must sign the performance plan at the time the plan is implemented. Changes made to performance standards during the performance period must be initialed by both parties prior to implementation. However, if the
changes to a plan have been communicated to the employee in writing, the lack of a signature by the employee does not invalidate the performance plan or changes to the plan.

F. Performance Rating Levels
Two distinct levels will be used for rating performance on each performance element: “Acceptable” and “Unacceptable”.

1. **Acceptable** - An “Acceptable” rating reflects meeting the established performance standard for the performance element.

2. **Unacceptable** – An “Unacceptable” Performance rating reflects a failure to meet the established performance standard for a performance element.

G. Final Ratings for Annual Performance Evaluations
1. Final ratings are derived as follows:
   a. **Acceptable** - A final rating on the annual performance evaluation when the employee is rated at the “Acceptable” level on ALL performance elements.
   b. **Unacceptable** - A final rating on the annual performance evaluation when the employee is rated at “Unacceptable” on ONE OR MORE performance elements.

H. Progress Review
1. Supervisors will conduct at least ONE mid-year progress review of employee performance relevant to the employee’s performance plan. The review results shall be communicated to the employee verbally and outcomes will be documented in writing.

2. Progress reviews provide an opportunity for both the employee and the rating official to:
   a. Ensure a common understanding of performance standards, discuss changing responsibilities, and revise standards if appropriate.
   b. Initiate a Performance Improvement Plan (PIP) when performance is “Unacceptable” in ONE OR MORE performance elements.

I. Annual Performance Evaluation
1. Supervisors will evaluate each employee’s performance utilizing the employee’s performance plan that includes performance elements and standards within 30 days of the end of the annual performance evaluation period. The completed performance evaluation shall be provided to the employee upon completion and prior to a Supervisor/employee meeting to discuss results.
2. Supervisors will discuss the evaluation with the employee in a private meeting and address the employee’s performance relative to each performance element. In the event a supervisor should leave his/her position, the supervisor should finalize the performance appraisal for all employees under their supervision prior to their departure.

3. Following the meeting with the employee, the Supervisor will document that a meeting has occurred. If the final rating is “Acceptable”, the Supervisor will obtain the employee’s signature with date of meeting on the evaluation form. If the rating is “Unacceptable”, the evaluation must be forwarded to the next level Supervisor for review and, if acceptable, the next level Supervisor shall sign the evaluation. Upon signature by the second level Supervisor, the employee will be requested to sign and date the appraisal form. Employees may comment on the evaluation form or submit an attachment for including in the employee’s personnel record.

4. A Supervisor may postpone the annual evaluation of an employee in the following circumstances:

   a. At the date of the appraisal, the employee has served LESS than 120 days under an approved performance plan;

   b. The employee has been, or is, in a leave status which has not permitted the rating official to observe his/her performance for a period of at least 120 days;

   c. A performance improvement period under a PIP for “Unacceptable” performance has not been completed;

   d. Termination or removal proceedings are pending.

J. Performance Improvement Plans (PIP)

   1. When a Supervisor determines an employee’s performance is “Unacceptable”, at any time during the performance cycle, he/she may provide an employee with a Performance Improvement Plan (PIP) that documents failures to meet performance standards for performance elements and identifies necessary performance for improvement.

   2. The following information is included in all Performance Improvement Plans:

      a. The performance element(s) for which performance is at the “Unacceptable” level.

      b. The “Acceptable” performance standard(s) for the performance element(s).

      c. A reasonable period of time during which the employee can be expected to attain the “Acceptable” performance level.
d. Examples of those aspects of work that are deficient and what must be done to overcome those deficiencies.

e. The personnel action that may result if performance is not improved in the performance element(s) specified at the “Acceptable” performance level, and

f. The type of assistance the rating official will provide to the employee to improve performance.

3. If at the end of the PIP period, the employee’s performance has not improved to the “Acceptable” level, an adverse action (demotion or removal) may be initiated. Alternatively, the employee may be reassigned to a position where it is believed his/her performance would be “Acceptable” in all performance elements. Any pay increase due the employee can be denied.

4. A supervisor may extend a PIP for one (1) additional period to allow the employee more time to improve performance. The extension of the PIP must be prepared in writing and will contain the following information:

   a. Justification and/or reasons for the PIP extension.

   b. The beginning and ending dates of the PIP extension.

   c. The performance element(s) in the original PIP that are being extended.

5. The employee must maintain an acceptable level on the performance elements contained within the PIP for the next twelve- (12) month period upon completion of the PIP. If the employee’s performance falls back to the unacceptable level on any performance element contained in the PIP within the twelve- (12) month period, the supervisor can automatically initiate adverse action without placing the employee on another PIP.

K. Pay Increases During a PIP

An employee’s performance must be at an acceptable level to earn advancement in pay. If an employee becomes eligible for a pay increase while under a PIP, the pay increase must be delayed or withheld. If an acceptable level of competence determination is made upon completion of the PIP, the employee’s pay increase may be granted effective the beginning of the next pay period following successful completion of the PIP.