

ADMINISTRATIVE  
PERSONNEL POLICY & PROCEDURES

MISSISSIPPI BAND OF CHOCTAW INDIANS  
As Amended September 9, 2022

P.O. Box 6010 | 101 Industrial Road  
Choctaw, MS 39350

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**MESSAGE FROM THE TRIBAL CHIEF**

We, the Mississippi Band of Choctaw Indians (MBCI), have become one of the largest private employers in the state of Mississippi. Through self-determination and strong leadership, we have overcome historical challenges and developed into a strong economic driving force in our state and throughout Indian Country. Part of that success is from having a talented and dependable workforce. As a tribal employee, you play a significant part in the success of our Tribe.

To our new employees, welcome! To our current employees, thank you for your loyal and continued service to the Tribe. An MBCI guiding principle is our belief that our employees are one of our most valuable resources. My goal is to work collaboratively as a team to provide support, encouragement and professionalism to our employees, tribal members and guests.

The enclosed Administrative Personnel Policy and Procedures for the MBCI will provide you with the guidelines of how to better understand what we, as your employer, expect of you as well as your rights as an employee. Please note this policy may be changed at any time at the discretion of the Office of Human Resources and the Tribal Council. Subsequent to any changes in policy, you may periodically receive updated information and it is imperative that you keep these updates with your copy of the policy.

It is our duty as employees of the MBCI to give our best work effort for the Tribe. The best way to do that is by understanding what is expected of us and communicating clearly with one another.

Should you have any questions regarding these policies and procedures, please discuss with your immediate supervisor or the Director of Human Resources. I look forward to our continued success as we work together for the betterment of the Tribe.

Yakoki,

Chief Cyrus Ben

“Choctaw Self-Determination”

## **I. INTRODUCTION**

### **A. Responsibility**

The Administrative Personnel Policy and Procedures (“Policy”) has been enacted by the Mississippi Band of Choctaw Indians Tribal Council pursuant to Article VIII, Section 1(c) of the Tribal Constitution. The Tribal Chief (“Chief”) has the duty and responsibility under Article IX, Section 1(b) of the Tribal Constitution to carry out this Policy, and the power and duty under Article IX, Section 1(d) to manage, administer and direct the operation of the tribal programs, activities and services and to report to the Tribal Council on the status of each program.

The Chief is authorized to issue procedures necessary to carry out this Policy. The Chief retains final signature authority for hiring employees working in the Tribal Government Services Division, with the exception of those employees whose employment must be confirmed by Tribal Council. The Tribal Chief has the authority to discipline, suspend, and terminate employees in accordance with this Policy. Changes or amendments to this Policy must be approved by the Tribal Council at any regular or special called meeting.

No personnel action, such as transfer of employees, hiring of new employees, terminations, suspensions, changes in salary, or any other personnel action is valid or effective until all levels of the chain of command have authorized the action consistent with this Policy and other Tribal ordinances and resolutions, as determined appropriate under the applicable law.

### **B. Application**

This Policy applies to all MBCI Government Services Division employees including, managers and supervisors. The Policy also applies to all elected officials of the tribe, except for the following sections:

- Section II.G – Reporting Violations of Policy
- Section II.H – The Investigation
- Section II.I – Responsive Action and Appeal
- Section II.J – Failure to Report
- Section V.A – Promotion-From-Within
- Section V.B – Identification of Hiring and Salary Approval Authority
- Section V.D – Candidate Screening Practices
- Section V.E – Initial Probationary Period
- Section VI.A – Criminal Charges Related to Drugs or Alcohol
- Section VII – Social Media Policy
- Section VIII.B, C, D, E, F, G, and H
- Section IX – Attendance and Punctuality
- Section X.B – Hire-In Rates
- Section X.C – Promotion Salary Adjustments
- Section X.D – Outside Activities
- Section X.E – Transfer
- Section X.G – Working On-Call
- Section XVI – Employee Development

Section XVII – Termination of Employment

Section XVIII – Grievance.

Elected officials of the Tribe, such as Tribal Council Members and the Tribal Chief, while acting in their elected capacities, are also governed by the MBCI Constitution and Bylaws and, in some instances, by additional ordinances.

This Policy is not an actual or implied contract between MBCI and any of its employees. All policies, practices, procedures, and benefits of MBCI, whether or not described in this Policy, may be changed, modified, or discontinued by MBCI at any time, without prior notice and with retroactive effect.

From time to time, this Policy may be amended. You will be responsible for familiarizing yourself with the amendments as they are issued and for complying with any amendments. Each page of this Policy is numbered and dated. As revised pages are issued from time to time, the pages which they supersede should be removed and discarded.

All employees will be given a copy of this Policy, and they will sign an acknowledgment certifying that they have read and understand the Policy.

**C. Sovereign Immunity**

Nothing in this Policy shall be construed as an express or implied waiver of the Tribe's sovereign immunity.

**II. EMPLOYMENT POLICIES**

**A. Native American Preference**

MBCI adheres to a publicly announced policy and practice of extending preferential treatment to all eligible Native Americans with regard to recruitment, employment, reduction in force, promotion, training, transfer, and related employment actions to the maximum extent permitted by applicable law. For purposes of this Policy, the order of Native American preference shall be: first, an enrolled MBCI Member; second, unenrolled descendants of members of the MBCI; and third, all other Native American Indians enrolled in a federally recognized Tribe.

MBCI maintains a program of recruiting, training, and upgrading Native Americans, and to the extent that funding permits, shall provide pre-employment and pre-promotion training for eligible Native Americans to help achieve its goal of ensuring maximum Native American employment in all levels of the workforce, including management.

Further bolstering this Native American preference to promote employment of MBCI members, it is the policy of MBCI to employ person(s) who are not members of MBCI only when no qualified member of MBCI, who has applied for the position, can be trained or upgraded to fill a given job vacancy within a reasonable period of time at a reasonable cost, and then only when a Waiver of Native American Preference has been secured from the Committee on Human Resources, Training and Development on a case-by-case basis.



The authority to waive Native American Preference laws can only be exercised by the Committee on Human Resources, Training and Development. The Committee will exercise its discretion to do so only when a motion is made by a committee member to support such waiver and the Committee determines by reviewing the facts and appropriate written documentation that a waiver is justified. A waiver to allow the employment of a person who is not a member of MBCI, or to employ a person who is Native American outside the order of preference set forth in this Policy, can be made by the Committee only for as long as the person who is granted the waiver remains in the position for which the waiver was granted. That waiver does not apply to other openings which the person who is granted the waiver may request a promotion or transfer for, or apply for. The Committee only has the right to approve or disapprove a waiver that has been requested by Executive branch supervisors, and has no right to direct, demand, or coerce any Executive Branch supervisor or personnel that any specific applicant other than the one for which waiver is sought, be employed. Supervisors who do not follow the Native American Preference Policy are subject to disciplinary action up to termination. A waiver is not required if no Native American has applied for a position.

The Director of Human Resources shall review all waiver requests prior to presentation to the Committee, and shall provide to the Committee his or her determination regarding the Waiver request. This includes in-house promotions where a Native American Preference Waiver request is submitted.

Acceptable proof of eligibility for Native American preference is required. Acceptable proof includes, but is not limited to, tribally-issued identification or a Certificate of Degree of Indian Blood. All personnel job vacancy announcements shall include the Native American Preference Clause.

#### **B. Veteran Preference**

Subject to the Native American preference, the Tribe shall adhere to a publicly-announced policy and practice of extending preferential treatment to qualified MBCI veterans with regard to recruitment, employment, reduction-in-force, promotion, training, and other employment actions.

“Qualified MBCI veterans” are veterans who have served and have been honorably discharged or who are presently serving in the Armed Forces of the United States of America beginning with World War II through the current time period.

#### **C. Equal Employment Opportunity**

MBCI is an Equal Opportunity Employer, and except to the extent required by its Native American Preference Policy and Veteran Preference Policy, MBCI prohibits any discrimination because of race, color, religion, sex, pregnancy, age, national origin, citizenship status, veteran status, physical or mental disability, genetic information, , or any other basis protected by applicable law. This policy applies to all employment decisions, including hiring, promotion, termination, and other matters affecting terms and conditions of employment.

Notwithstanding the above, in the event of a federal or tribal mandate requiring vaccination against an infectious and communicable disease, an employee may not use equal employment as a

basis to refuse vaccination, unless a medical provider certifies that the employee should not be vaccinated because of recognized clinical contraindications.

#### **D. Harassment**

MBCI prohibits harassment because of race, color, religion, sex, pregnancy, age, national origin, citizenship status, veteran status, physical or mental disability, genetic information, or any other basis protected by applicable law.

Sexual harassment is a form of harassment and is prohibited regardless if the harassment is directed against males or females by any employees, supervisors, vendors, or customers. All employees are expected to act professionally at all times and to use the complaint/grievance procedure detailed herein, if offensive conduct has occurred at MBCI.

Prohibited conduct that may constitute harassment includes, but is not limited to, the following:

- Offensive, derogatory, inappropriate or abusive statements, comments, slurs or gestures;
- The use of sexually suggestive language and other behavior that is offensive, derogatory, inappropriate or abusive;
- Conduct that interferes with job performance or creates an offensive or intimidating work environment;
- Unwelcome flirtation, requests for sexual favors, sexual advances or propositions, requests for “dates,” and other verbal or physical conduct of a sexual nature;
- Display of sexually suggestive or sexually explicit pictures, greeting cards, books, drawings, photographs, magazines, websites, cartoons or objects;
- Circulation of e-mails, texts messages or other communication or jokes, or materials that reasonably could be viewed as offensive by any employee;
- Implying, by words or actions, that an employee must tolerate or submit to sexual advances or offensive, inappropriate, or abusive conduct.

#### **E. Other Illegal or Unethical Conduct Prohibited**

MBCI is committed to the highest regard for law and ethics. Illegal or unethical conduct of any type is prohibited. If you believe someone has asked or instructed you to commit an illegal or unethical act, or if you believe you are being retaliated against for refusing to do so, this must be reported immediately. MBCI prohibits any employee from engaging in any illegal or unethical conduct or asking or instructing another to do so. Further, if a vendor or customer engages in illegal or unethical activity, or asks you to do so, this must also be reported.

#### **F. Retaliation Prohibited**

MBCI prohibits retaliation against anyone who makes a good faith complaint or report under this Policy, participates in an investigation of a complaint under this Policy, or who otherwise acts to enforce or uphold this Policy. If you believe you are being retaliated against for

reporting a suspected violation, or participating in an investigation, please use the reporting procedure set forth immediately below and report the matter immediately.

#### **G. Reporting Violations of Policy**

You must report all incidents of discrimination, harassment, abusive behavior, retaliation, illegal or unethical conduct directed at you or another person, regardless of the offender's identity or position. The report of suspected violations must be made to your supervisor in writing within five (5) work days of the incident giving rise to the complaint. If you feel uncomfortable reporting to your supervisor, or do not get a prompt response, you must promptly contact the Director of Human Resources and file a complaint in writing within five (5) work days of the incident giving rise to the complaint. Failure to file a complaint in writing within five (5) work days of the incident giving rise to the complaint may result in denial of a grievance for untimely filing. However, MBCI reserves the right to take any and all personnel actions regarding employee misconduct necessary to protect the interests of MBCI and necessary to address employee misconduct regardless of the date a complaint of violation of MBCI policy is received.

#### **H. The Investigation**

Complaints filed alleging the violation of any of the provisions set forth in Part II of this Policy are subject to the investigation procedures set forth in this Section H and Section I. Such complaints shall be treated as grievances, and after exhaustion of the procedures specified in this Section H and Section I, an aggrieved employee may proceed to Step 2 of the Grievance Procedure in Section XVIII specified in the grievance resolution process.

MBCI will promptly investigate all complaints. The investigation may be conducted by the Office of Human Resources, or, alternatively, by the supervisor in consultation with the Office of Human Resources. An employee may be suspended, with or without pay, pending the results of the investigation. The investigation may include interviews with the employees and other people who may have relevant information. Employees are expected to cooperate fully and provide all relevant information concerning the investigation. Failure to cooperate fully with an internal investigation may result in disciplinary action up to and including termination from employment. Except for an employee who has been suspended pending investigation, an employee has no right to representation during the investigatory process. The right to representation begins during the grievance process. MBCI shall have the authority to take any and all actions necessary to protect an employee complainant from retaliation during the pendency of an investigation and to protect the best interests of MBCI.

MBCI will maintain confidentiality of the complaint, the investigation, and the investigation result, to the extent possible, and MBCI will instruct everyone contacted during the investigation to do so as well. The complaining party and any accused employee will be given full opportunity to present their views and will be advised of the results of the investigation, to the extent possible while maintaining employee discipline confidentiality requirements.

#### **I. Responsive Action and Appeal**

Upon conclusion of the investigation in Section H, MBCI will issue a written decision regarding the merits of the complaint. If it is found that a Policy violation or illegal or unethical

activity has occurred, appropriate corrective action will be taken. Any employee aggrieved by the resolution of a complaint may submit a written appeal pursuant to the grievance resolution process in Section XVIII.

**J. Failure to Report**

If you have knowledge of discrimination, retaliation, abusive behavior, or illegal or unethical conduct, promptly report what you know, using the procedures set forth above. If an employee is aware of prohibited conduct, failure to promptly report the matter may result in disciplinary action, up to, and including, termination from employment.

**K. Policy Against Weapons, Workplace Violence and Other Inappropriate Conduct; Reporting Procedure**

MBCI strictly prohibits employees from: possessing, using, transferring or selling any firearm, knife or other dangerous weapon during working hours or while on or conducting Tribal business and/or while representing MBCI, unless specifically authorized by an employee's job description and work requirements, Fighting, "horseplay," and/or other conduct that may harm, offend, threaten, intimidate, and/or coerce any employee, client, vendor, supplier, or member of the public are prohibited. These prohibitions apply to behavior on Tribal property, while on Tribal business off the property, and while representing MBCI in any other manner.

If you know of a potential violation of this Policy, or if you feel some person or something is suspicious, please do not intercede or otherwise place yourself in danger. Immediately report any concerns you have about weapons and/or actual or potential workplace violence or other inappropriate conduct to your supervisor. If you cannot immediately reach your supervisor, or if danger is imminent and/or if there is any other reason why contacting your supervisor is inappropriate under the circumstances, please immediately contact the Office of Human Resources. Where appropriate, call 911 for law enforcement assistance. MBCI will take appropriate action as dictated by the circumstances.

**III. NATURE OF EMPLOYMENT**

This Policy is not an employment contract. MBCI reserves the right to change this Policy at any time, with or without notice. As a MBCI employee, you are subject to the terms of this Policy, and any changes hereto enacted by the Tribal Council at any time, including MBCI's right to change the terms and conditions of employment effective immediately upon adoption of a revised policy. This provision applies to all employees unless you have an individual written employment agreement, signed by you and the Chief, granting you an unconditional contractual right of employment for a defined period of time. MBCI reserves the right to change this Policy at any time. As such, you do not have any vested right to rely upon policies in existence at the time you accepted employment. No representative of MBCI has the authority to offer or promise you anything different.

No Tribal employees running for any political office may engage in any political activity while on the job, nor shall the employee use any Tribal property (communications systems, emails, printers, paper, vehicles, or any other property belonging to the Tribe) in campaigning for office.

All Tribal employees are to refrain from involving themselves in any activities that may be deemed politically oriented during regular business hours (generally Monday through Friday, 8:00 a.m. through 4:30 p.m.) or during any time when the employee is on duty, whether or not that duty is during regular business hours or on tribal government property. Some instances of political activity include:

1. Making political statements to customers, employees or the public;
2. Wearing pro-candidate clothing, buttons, pins or campaign paraphernalia;
3. Postings on bulletin boards or email systems for political purposes or distributing or receiving push cards or campaign literature in any manner;
4. Engaging in political fundraising or political informational meetings within the workplace;
5. Missing work for political purposes without complying with this Policy on pre-approved leave;
6. Using any Tribal resource (paper or other consumable supplies, telephones, copies, computers, tribal motor vehicles, etc. for a political purpose).

It is permissible to use community buildings and ball fields as locations to meet with constituents for political purposes, but only during non-working hours and with the prior approval of the applicable Administrative official to whom that duty is assigned.

MBCI has resources available to assist employees with problems they may encounter at work. Employees should use all available levels of supervision in the chain of command to address issues involving their employment. Using resources outside of the chain of command can result in delay and inappropriate action. Any deviation from the chain of command may result in appropriate discipline.

#### **IV. INTEGRITY AND STANDARDS OF CONDUCT; CONFIDENTIALITY OF MBCI BUSINESS**

All employees shall adhere to the highest standards of conduct, personal integrity and honesty, always acting in a way that merits the continued trust and confidence of the public. Some of the standards of conduct that employees must follow include, but are not limited to:

1. All documents must be completed truthfully. *Examples: job applications, employment records, time cards, expense reports.* Falsification of any documents or records is strictly prohibited.
2. Employees are expected to cooperate fully with internal investigations. All employees are subject to investigation for workplace and related matters and purposes, including investigations conducted by outside parties. Except

for an employee who has been suspended pending investigation, an employee has no right to representation during the investigatory process. The right to representation begins during the grievance process.

3. Illegal or unethical conduct will not be tolerated. MBCI is committed to the highest regard for law and ethics. If any employee believes he/she has been instructed or requested by MBCI, or anyone acting on behalf of MBCI, to engage or participate in any unlawful or unethical activity, the employee should immediately contact his/her supervisor or the Office of Human Resources.
4. Treat all employees, visitors, vendors and customers courteously and with respect. Each employee must demonstrate respect for both fellow employees and management. Discourteous conduct is harmful to you and MBCI, and it will not be tolerated.
5. Perform your job to the best of your ability and cooperate with your supervisor to achieve the best in his or her efforts to improve your performance. MBCI expects all employees to maintain fully satisfactory performance and to cooperate with others to achieve MBCI's goals as efficiently and effectively as possible. Insubordination is not tolerated.
6. Maintain the confidentiality of any and all information regarding MBCI's operations, policies and procedures, fellow employees, vendors, customers and/or other companies with whom MBCI has business relations. All business matters within MBCI are of the highest confidential nature. Disclosing any confidential information to third persons is a breach of the duty of confidentiality.
7. Avoid all possible conflicts of interest or appearances of conflicts of interest. A conflict of interest may arise from any number of circumstances, including an employee's financial interest in or involvement with an entity with which MBCI conducts business or competes for business, or involvement in an activity that interferes with your job performance. Employees must disclose, immediately and in writing, any possible conflicts of interest to the Chief. The Chief will make a determination on a case-by-case basis. The Chief's decision is final. Gifts and gratuities must be approved and reported under the procedures set forth under Section XIX.G of this Policy.
8. Be honest in all matters. Report information as accurately as possible in all matters relating to your employment and the business of MBCI. This includes MBCI documents such as your employment application, hours worked, and expenses. MBCI will not tolerate dishonesty.
9. Respect the property of MBCI and of your fellow employees. Misuse or abuse of equipment or property belonging to MBCI, customers, or any other

entity doing business with MBCI is prohibited. This includes unauthorized personal use of MBCI's supplies, computers, vehicles, mechanical equipment, and long distance telephone lines.

10. All relationships must be built on mutual trust. For this reason, surreptitious taping of conversations with management, other employees, or any entity with which MBCI has business relations is prohibited, except as provided herein.
11. Do not bring or possess any type of unauthorized weapon or unlawful drug at the workplace, or have any such weapon or drug in your possession at any time while you are on MBCI business.
12. Your behavior, whether on or off duty, including any use of Social Media, should always reflect favorably upon MBCI. Employees shall follow the policies herein on Equal Employment Opportunities, discrimination, and harassment.

## **V. GENERAL EMPLOYMENT AND PERSONNEL ACTIONS**

### **A. Promotion-From-Within**

While maintaining consistent application of MBCI's Native American Preference Policy and Veteran Preference Policy, enrolled members of MBCI who are employed by the Tribe, including participants in training programs within the MBCI, will be given preference in the filling of vacancies. Promotions entailing only salary increases and/ or modifications of or additions to existing job responsibilities and duties of an employee may be made at the discretion of the Chief.

### **B. Identification of Hiring and Salary Approval Authority**

The Chief must approve a manager or supervisor's recommendation for employment before any offer is made to a prospective employee. This includes rate of pay approval.

The Tribal Council shall establish a basic departmental structure for the Tribal Government executive branch.

### **C. Nepotism**

No person may hold a position over which a immediate family member exercises supervisory authority or in which a immediate family member is in a position to order or recommend personnel actions which would affect him or her. Similarly, no person may hold a position in which he or she exercises supervisory authority or responsibility over an immediate family member. This provision does not apply to persons occupying positions to which they were elected.

An immediate family member is defined as one of the following: husband, wife, child, grandchild, brother, sister, mother, father, grandmother, grandfather, or any aunt, uncle, niece and

nephew who is related to the employee within the 3<sup>rd</sup> degree according to the Nolan Chart of Relationships and Degrees of Kindred.

**D. Candidate Screening Practices**

To the maximum extent possible, the Tribe will check the references and former employers listed by applicants on the standard application form. If the position requires that an employee be licensed, the Tribe will inquire whether the candidates have been licensed or are able to be licensed upon commencement of employment.

Where the nature of the job warrants it, the job announcement may cite that the applicant is subject to examination. The examination shall pertain to those matters which test the capacity and fitness of the candidate to discharge in a satisfactory manner the essential duties of the job for which he/she is applying. Examinations may be oral, written, physical, manual, or a combination, and, if the job description so states, may be required annually for recertification and continued employment.

The Chief is authorized to hire persons in positions at Choctaw Health Center and Community Health Clinics and persons in the Department of Schools requiring certification or licensure without issuing a job announcement and without securing a waiver of Native American preference. If a job announcement is issued, and if a Native American has applied for the position and meets the job requirements, but is not preferred to be selected, a Waiver of Native American preference must be obtained from the Committee on Human Resources, Training and Development. A waiver is not required if no Native American has applied for a position.

Applicants for educational and non-educational positions within MBCI for which background checks are required, and for which there are limitations on eligibility for employment based on criminal background mandated by public law, including but not limited to the Department of Public Safety, Department of Health, Public Trust, Department of Education, Head Start and Day Care programs, and volunteers covered by 25 U.S.C. § 3207 et seq. (which includes all positions that involve regular contact with, or control over, Indian children) and those positions identified in the MBCI Employment Background Check Policy must sign a declaration prior to employment, which lists:

1. all pending and prior criminal arrests and charges related to child sexual abuse, drug-related criminal convictions, crimes of violence, crimes against persons, and their disposition;
2. all charges or convictions related to other forms of child abuse and/or neglect; and
3. all convictions of criminal conduct; provided that the declaration may exclude:
  - a. traffic fines of \$200 or less;
  - b. any offense, other than any offense related to child abuse and/or child sexual abuse or violent felonies, committed before the prospective employee's 18th birthday, which was finally adjudicated in a juvenile court or under youth offender law;
  - c. any conviction the record of which has been expunged under federal



- or state law; and
- d. any conviction set aside under the Federal Youth Corrections Act or similar state authority.

Prior to placing such person on duty, or approving a volunteer placement in a designated position, the Office of Human Resources shall have conducted a state and/or national criminal record check and confirmed that the applicant or volunteer meets the requirements of the program, applicable public law, and the MBCI Employment Background Check Policy as applicable. All persons placed on duty or approved for volunteer placement under this paragraph are on provisional status until such time as a Suitability Determination is completed.

**Persons making material misrepresentations in their application are subject to immediate termination.**

**E. Initial Probationary Period**

All regular employees--except Education Contract employees and political appointees--will be placed on probation for the first ninety (90) calendar days of employment. Temporary employees shall remain in probationary status during their entire period of employment.

All newly hired law enforcement officers shall also be placed on probation for the first ninety (90) calendar days of employment. All law enforcement officers must successfully complete all applicable police training and certification. After the first ninety (90) calendar days of employment, all law enforcement officers shall remain in new-hire probationary status for a period of eighteen months from the date of employment or until all applicable police training and certification is successfully completed by the law enforcement officer, whichever comes first. However, during this extended probationary period after the first ninety (90) calendar days of employment, the law enforcement officer shall receive all regular employee benefits and have all rights to time off from work in accordance with Section XII of this Policy, unless the law enforcement officer is on disciplinary probation as well. Any law enforcement officer who does not obtain the applicable police training and certification within eighteen months from the date of employment may be subject to immediate termination for unsatisfactory performance for failure to complete required policy training and certifications. For purposes of this Section, the term "law enforcement officers" includes wildlife officers, detention officers, and police officers.

MBCI reserves the right to terminate any employee during his or her probationary period, for any or no reason, and without appeal. Any adverse personnel action that is initiated by a supervisor before the end of the ninety (90) day probationary period, but which is not finalized within the 90-day probationary period, will be deemed to have been finalized before the end of the probationary period. However, continued employment either during or after completion of the probationary period is not guaranteed. Acceptance of employment is expressly conditioned on this understanding.

During the probationary period, the supervisor shall meet with each employee every thirty(30) calendar days to review the employee's job performance and the supervisor's expectations of the employee. At the end of the ninety (90) day period, the supervisor shall evaluate the employee's fitness and ability to perform the duties of the position. The supervisor shall announce in writing to the employee a change in status from probationary to regular full-time employee and shall place a copy of

such notice in the permanent record of the employee, and it shall constitute the first evaluation of the employee. Upon satisfactory completion of the probationary period, all rights and privileges of a regular employee shall be vested in the employee retroactively to the first day of employment.

## **VI. POLICY FOR A DRUG-FREE AND ALCOHOL-FREE WORKPLACE**

MBCI has three (3) separate Drug and Alcohol Policies, and each tribal employee will be covered under a specific policy depending upon their job duties. The policies are as follows:

1. MBCI Drug and Alcohol Policy;
2. DOT Drug and Alcohol Policy; and
3. FTA Drug and Alcohol Policy.

Each employee is required to sign an Employee Notice and Acknowledgement of MBCI's Drug and Alcohol Testing Requirements which will indicate which Drug and Alcohol Policy the employee is required to follow.

### **A. Criminal Charges Related to Drugs Or Alcohol**

All employees are required to report, within five working days, any arrest for violation of a drug statute or alcohol violation to the Office of Human Resources and their supervisor. Refusal to submit to a drug or alcohol test as required by law enforcement shall be considered a positive test result.

MBCI shall, in the case of arrest or conviction of an employee, whether on or off duty, take appropriate personnel action against such employee and/or require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes.

## **VII. SOCIAL MEDIA POLICY**

### **A. Introduction**

Social media tools are a powerful form of communication that can have a significant impact on organizational, professional, and individual reputations. Forms of social media include but are not limited to [Facebook.com](https://www.facebook.com), Google+, [LinkedIn.com](https://www.linkedin.com), [MySpace.com](https://www.myspace.com), and [Twitter.com](https://www.twitter.com), as well as personal websites and weblogs (blogs).

Employees must exercise care when participating in social media, as the lines between personal and professional content, lawful and unlawful, and between public and private content, are often blurred. Whether participating on behalf of MBCI or personally, employees should follow the same standards of behavior "online" as they would if in "person." Remember that the Internet is not anonymous, and it does not forget.

The purpose of this policy is to encourage clear and consistent communications with our employees, customers and the media and to protect the trade secrets and intellectual property rights of MBCI, and to promote compliance with applicable laws. Employees are also advised that MBCI maintains workplace policies prohibiting harassment, sexual harassment, and other misconduct, and such policies apply equally to social media activities by employees.

**B. MBCI Policies Extend to Social Media Activities**

Social media communication or participation is strictly prohibited while an employee is on duty, unless such communication or participation is conducted for official MBCI business and is specifically authorized by your supervisor. The following are general guidelines for employees' participation in social media and online communications while they are off duty.

1. Take Responsibility and Be Transparent.
  - a. You are responsible for anything you write or do online.
  - b. Use good judgment when you post, and think about the consequences of what you are posting. Assume your writings will spread.
  - c. Ensure that your communications or postings do not violate any of the policies set forth in this Policy or otherwise, including but not limited to, Equal Employment Opportunity, Non-Harassment Policies, and the Integrity and Standard of Conduct policies.
  - d. Do not express, communicate or link to comments that are vulgar, obscene, threatening, pornographic, harassing or defamatory or which are a violation of the MBCI's workplace policies against sabotage, discrimination, hostility or harassment on account of age, race, religion, sex, ethnicity, nationality, disability, political affiliation, or other protected class, status, or characteristic.
  - e. Managers and supervisors should avoid social media relationships with non-managerial employees, except in cases where the relationship is limited to business-related networking or there is a legitimate business purpose.
  - f. The Office of Human Resources is responsible for providing references to employees, in accordance with MBCI policies, as well as to comply with applicable employment laws. Managers and supervisors shall *not* provide references for current or former employees via social networking sites (i.e. LinkedIn).
  
2. Protect the Trade Secrets, Intellectual Property Rights, and Privacy Rights of MBCI, Its Employees, and Its Customers
  - a. The Tribe's livelihood depends on its trade secrets and intellectual property rights remaining protected. To this end, and in accordance with the Tribe's trade secrets, employees are prohibited from posting any information on social media that would reveal trade secrets, confidential strategic business initiatives (e.g., a new secret product line, acquisition, or "secret sauce"), or compromise MBCI's intellectual property rights in any way.
  - b. Similarly, and in accordance with applicable law, employees are prohibited from posting confidential personal information about customers or employees (social security numbers, protected health

information, credit card numbers, drivers' license numbers, mother's maiden name, complete date of birth, minor children's names, etc.).

- c. Employees also may not use any client or vendor trademarks or logos, for commercial use, without their express permission. All employees must abide by all Copyright laws.
- d. Social media is not for everyone, and many employees opt not to socialize with their coworkers, via social media or otherwise. To this end, employees are not required to connect with any coworker or to "friend" them on social media sites. Employees are prohibited from threatening other employees to coerce them to engage in social media activities.

### 3. Obligation to Report Violations of This Policy

- a. If an Employee becomes aware of a violation of this social media policy, such violation should be reported to an appropriate supervisor or to the Office of Human Resources.

If an Employee feels he or she is being harassed, discriminated against or retaliated against for reporting a violation of the social media policy, he or she should immediately report this to his or her supervisor or to the Office of Human Resources.

## VIII. EMPLOYEE CLASSIFICATION

### A. Exempt Employees

Each employment position is classified as exempt or non-exempt under this Policy in accordance with the Department of Labor regulations at 29 C.F.R. Part 541.

Exempt employees are paid on a salary basis and, with certain exceptions, must be paid their full salary for any week in which they perform work. The exceptions for which an exempt employee's pay may be reduced are as follows:

- 1. Employees who are absent for at least a full day because of sickness or disability will not be paid for that day unless they are eligible for benefits under MBCI's paid time off, vacation, sickness, or disability policies. An exempt employee's pay will not be reduced if he/she is absent for less than a full day because of sickness or disability.
- 2. Employees who take leave under the Family and Medical Leave Act ("FMLA") will not be paid for that time unless they have accrued benefits under MBCI's leave policies which run concurrent with the FMLA leave. Pay of employees on FMLA leave will be reduced by the hours missed even if it is less than a full day.
- 3. Employees who are absent from work for at least a full day for personal reasons other than sickness or disability will not be paid for that day. If an employee is absent for less than a full day for personal reasons, his or her

- pay will not be reduced.
4. Employees who are absent from work for jury duty, attendance as a witness at a trial, or temporary military leave will have their pay reduced by the amount of payment they receive in the form of jury fees, witness fees, or military pay. Their pay will not be reduced by the number of hours or days they are absent from work unless they perform no work in a given week.
  5. If an employee violates a safety rule of major significance while on duty, his or her pay may be reduced in an amount to be determined by MBCI as a penalty for that violation.
  6. Employees may be suspended without pay for certain other types of workplace misconduct, but only in full-day increments. The reduction in pay will be proportionate to the number of days suspended.
  7. Employees who work less than 40 hours during their first or last week of employment will be paid a proportionate part of their full salary for the time actually worked.
  8. Exempt employees shall be at their designated worksite at all times during the work day. If an exempt employee will be away from their designated work site for more than a brief period of time and annual or sick leave has not been approved, they must obtain their supervisor's written approval to be away from the work site. It is entirely within the supervisor's authority to deny the request.

MBCI will reimburse any exempt employee whose pay is reduced in violation of this Policy. If you feel your pay has been improperly reduced, please notify your supervisor or the Director of Human Resources.

#### **B. Nonexempt Employees**

Nonexempt employees will be paid only for actual hours worked unless they receive benefits under MBCI's leave policies. All time worked by nonexempt employees in excess of forty hours in a workweek will be paid at one and one-half times the employee's rate of pay.

All hours of work must be accurately recorded. If you have been instructed to falsify time records by any person, you must report this matter immediately to the Director of Human Resources.

#### **C. Probationary Employees**

Probationary employees include employees who have not yet completed 90 calendar days of employment, and employees who are on disciplinary probation under part XVI, Section C of this Policy. Probationary employees who have not yet completed 90 calendar days of employment are subject to the provisions of Part V, Section E of this Policy. Probationary employees, whether they are on the initial 90-day probation or disciplinary probation, may take the following leave with pay: holiday, emergency leave, civil leave, administrative leave, bereavement leave, and military leave. Probationary employees are also eligible to take leave without pay. However, they may not take annual leave or sick leave.

**D. Regular Full-time Employees**

Employees who are regularly scheduled to work at least 40 hours per week and are eligible for full employee benefits.

**E. Regular Part-Time Employees**

Employees who are regularly scheduled to work less than 40 hours per week will be eligible for prorated sick leave, annual leave benefits, and workers' compensation.

**F. Temporary Casual Employees**

Employees hired for a specific and limited period of less than six (6) months are eligible only for workers compensation benefits. If it is determined at the conclusion of the six months to continue employment, temporary casual employees may be reclassified as Regular Part-Time or Regular Full-Time, which may make them eligible for employee benefits in accordance with this Policy.

**G. Education Contract Employees**

All employees with positions in the Department of Schools are Education Contract Employees. Education Contract Employees serve on the basis of an annual contract, with the exception of school principals, whose contracts may be for a period of up to three (3) years, subject to an annual evaluation.

Education Contract Employees will not receive annual leave, but will receive time off in the form of school holidays and personal leave. Personal Leave will be awarded at the beginning of each contract period in amounts determined by part XII. Time Off From Work.

Substitute employees in tribal educational programs, and any employees in the Tribal Health Center who work only as needed basis, are considered intermittent employees and are retained on an as-needed basis only, are not guaranteed any certain number of hours of work per week or pay period, and are eligible only for the benefit of workers' compensation.

**H. Political Appointees**

Political appointees are those persons occupying positions directly appointed by the Chief and supervised by the Chief or the Chief's designee. Political appointee positions may or may not be advertised, and will not be subject to an initial probationary period. Incumbents of such positions shall not have recourse to the grievance procedures described in this Policy as a result of termination or for any other cause. A Waiver of Native American Preference is not necessary for political appointee positions as the nature of these positions are at the discretion of the Tribal Chief who retains ultimate authority to select who is best qualified for the position.

## **IX. ATTENDANCE AND PUNCTUALITY**

The normal workweek is 40 hours, Saturday through Friday, at all tribal locations unless otherwise specified and approved by the Chief. Daily hours are from 8:00 a.m. to 4:30 p.m. with a one-hour lunch break between 12:00 and 1:00 p.m., unless otherwise decided by the Chief. Individuals may alter this schedule by prior agreement with their supervisors, provided the regularly scheduled hours are worked each week. Some positions may require employees to work nights and weekends.

All employees must report to work as scheduled. If you must be absent or tardy, you must notify your supervisor in advance of the anticipated tardiness or absence. If you cannot provide advance notice, call your supervisor as soon as possible, but in no event later than 30 minutes after your scheduled start time. You also may be required to submit documentation of the reason for your tardiness or absence.

Any employee absent from work for a period of two (2) consecutive workdays, without daily notification to your supervisor of the reasons for the absence, will be considered as having voluntarily resigned. It is not sufficient to leave a voice mail message; you must personally contact your supervisor. If for any reason you are unable to contact your supervisor personally, then you must contact your supervisor's superior. In the rare case where neither can be contacted personally, you must leave your supervisor a voice mail message, stating the date and time you called, the reason for your absence, and where and how you can be reached.

In the event of an emergency situation (hurricane, flood, and severe weather) you should monitor media outlets including the Tribal website to determine if your specific work location is open for business. If you do not locate this information through media outlets, contact your supervisor. If you cannot reach your supervisor, contact the Office of Human Resources. If your work location is open for business, MBCI expects you to report to work if possible. If you are unable to report to work, you still must contact your supervisor to inform him or her why you are unable to report to work. MBCI will make every effort to make public notifications regarding closures in emergency situations through the media or Tribal website.

In the event a State of Emergency is proclaimed by the Tribal Chief of the Mississippi Band of Choctaw Indians ("MBCI") in accordance with MBCI Ordinance 50-A, the employee may, with authority from the supervisor and Human Resources, be responsible for performing essential duties from an alternate duty location. Employees authorized to telework must have an executed Telework Policy and Security Agreement on file and complete any other forms as are required for documentation purposes.

The employee must agree to observe all MBCI policies including those with respect to hours of duty, absence and leave, compensatory time and overtime and properly document time and attendance records.

MBCI will not be responsible for operating costs, home maintenance, or any incremental or incidental costs whatsoever, associated with the use of the employee's residence. MBCI will not be liable for damages to an employee's personal or real property during the course of performance of official duties or while using MBCI tribal government equipment in the

employee's residence, except to the extent MBCI is held liable by the Tribal Tort Claims Act.

Employees are responsible for the security of MBCI tribal government property and information in all work locations including telework locations.

## **X. COMPENSATION**

Salaries will be paid biweekly on Thursday with a two-week lag in reimbursement. All supervisors will submit two-week time sheets prior to each pay period for each nonexempt employee under their supervision and for exempt employees who take leave during the pay period.

Nonexempt employees who take time away from their duties must submit appropriate documentation to their supervisor, and their time sheets must reflect the absence. In the case of Education Contract Employees working only for the school year, employees will receive their contract salaries on a prorated basis during the entire year.

Overtime will be paid at the rate of one and one-half times any nonexempt employee's regular hourly rate for all hours worked in excess of the regularly scheduled 40-hour week. Overtime shall not be worked without the prior written approval of the employee's supervisor. Exempt employees are not eligible for overtime.

### **A. Salary Grades**

Grades for each position may be reviewed before the beginning of each fiscal year for possible adjustments as determined by market considerations. Salary adjustments will not be automatic, will depend upon available funds, and may differ from job to job.

### **B. Hire-In Rates**

Employees must be compensated at the minimum pay rate for the grade. However, an unusually well-qualified candidate or unusual market conditions may justify hire-in at a higher rate within the grade.

In the case of persons hired as certified instructional staff and administrators in the Choctaw Tribal Schools, the Revised Education Pay Schedule will determine salary levels. Salary levels are determined by the employees' level of certification and their years of experience with a maximum of ten (10) years' experience credited from other school districts. Tribal members who become certified teachers or administrators will be credited for their years of experience as an instructional aide in the Choctaw Tribal Schools. Administrators for designated positions will be compensated in accordance with their corresponding position on the Revised Education Pay Schedule multiplied by an additional factor approved by the Chief and the Tribal Council.

### **C. Promotion Salary Adjustments**

If an individual is promoted to a tribal job with a higher salary range, pay will be adjusted upward to step one of the range of the new position. If pay already exceeds step one, the individual will enter the new range at whatever step is next above his or her present pay.



All Tribal positions will have written job descriptions which will be used for position evaluation to determine equitable pay with public and private sector jobs comparable to those of the Tribe. The supervisor and employee will review the job description on an annual basis during employee performance reviews. The supervisor shall notify the Office of Human Resources of any recommended changes to the job description. All job description changes must be approved by the Office of Human Resources.

**D. Outside Activities**

Outside employment or activities of any sort must not interfere with the efficient performance of an employee's duties; involve a conflict of interest with regard to the employee's duties; or involve the performance of duties regularly performed by the employee in his or her employment with MBCI. Employment or economic activity outside of an employee's primary position with the Division of Tribal Government Services must be approved in advance and in writing by the Chief.

**E. Transfer**

The Chief may transfer employees from one job in the Division of Tribal Government Services to another for which they are qualified, without the job having to be advertised or announced. Transferring employees, including employees transferring from Tribal Council to Executive Branch employment, may transfer all of their accrued leave and will maintain other benefits. Employees may request a transfer by submitting a written request to the Director of Human Resources, and providing a copy of the written request to the Chief.

Each employee transferred pursuant to this Section E must be evaluated by the immediate supervisor of his or her new position within 30 days of being transferred. MBCI may, within 90 days of transferring an employee, transfer the employee back to the position from which the employee transferred, or to another position, as MBCI deems reasonable under the circumstances.

**F. Salary Advances**

No employee can receive his or her salary or compensation in advance unless there is a death or hospitalization in the employee's immediate family as defined in the sick leave policy, and the employee's paycheck has already been printed.

No emergency pay advance forms are to be taken to the Chief's office without first being approved by the Office of Human Resources. Emergency pay advance forms are not to be used upon resignation or termination of employees.

**G. Working On-Call**

The nature of some positions with MBCI requires that some employees in those positions be placed "on call." This will always be reflected in the position description and all new employees will be informed of this before they agree to accept a job offer. Employees that are placed "on call" are asked to respond to pagers, beepers or cellphones by reporting to their duty station within a reasonable time period.

## **XI. BENEFITS**

MBCI offers a broad range of benefits to eligible employees. The summary plan descriptions and formal plan documents provide the eligibility requirements and an explanation of the benefits offered. Copies of the summary plan descriptions, the formal plan documents, or any other documents relating to employee benefit plans, will be made available to employees upon hire. If you have any questions regarding this information, or if you believe you did not receive any of the above-described information, please contact the Office of Risk Management.

## **XII. TIME OFF FROM WORK**

### **A. Holidays**

Employees are eligible for “holiday pay” on fourteen (14) holidays each year. The holidays recognized by MBCI are:

<b>New Years’ Day</b> (Jan. 1)	<b>Labor Day</b> (first Monday in Sept.)
<b>MLK, Jr. Day</b> (3 <sup>rd</sup> Monday in Jan.)	<b>Native American Day</b> (4 <sup>th</sup> Friday in Sept.)
<b>President’s Day</b> (third Monday in Feb.)	<b>Veteran’s Day</b> (Nov. 11)
<b>Good Friday</b> (Friday before Easter)	<b>Thanksgiving Day</b> (4 <sup>th</sup> Thursday in Nov.)
<b>Memorial Day</b> (last Monday in May)	<b>Native American Heritage Day</b> (day after Thanksgiving)
<b>Juneteenth National Independence Day</b> (June 19)	<b>Christmas Day</b> (December 25)
<b>Independence Day</b> (July 4)	
<b>Nanih Waiya Day</b> (2 <sup>nd</sup> Friday in August)	

If a holiday falls on a Saturday, it will be observed the day before on Friday. If a holiday falls on a Sunday, it will be observed on the following Monday.

To be eligible to receive holiday pay, however, an employee must work his or her scheduled hours, or be on pre-approved leave, on the workday immediately preceding and the workday immediately following the holiday. If any holiday occurs during an employee’s approved annual leave, that day will not be charged against the employee’s annual leave.

Exempt employees receive no additional compensation beyond their salary, base, or commissioned pay for holidays.

### **B. Annual Leave**

Each employee may take annual leave with full salary at such time as is mutually agreed upon with his or her supervisor. Annual leave may be taken in “one-hour” increments or longer, based on the following accrual rate: employees with less than three (3) years of continuous service to MBCI government services shall accrue annual leave at the rate of one-half (1/2) day for each full biweekly pay period; employees with more than three (3) but less than ten (10) years continuous service to MBCI government services shall accrue three-fourths (3/4) day annual leave

for each biweekly pay period; employees with ten (10) or more years continuous service to MBCI government services will accrue one (1) day annual leave for each biweekly pay period. Employees with a greater accrual rate under prior policy will continue accrual under that policy until they reach a higher rate under this new annual leave accrual policy.

A regular full-time and regular part-time employee accrues annual leave from the first day of employment but is not eligible to take accrued annual leave until he or she has completed 90 continuous calendar days of service. Employees may not borrow annual leave time.

At the beginning of any fiscal year, each employee may carryover from the preceding year(s) no more than 480 hours of annual leave. Any exempt or non-exempt employee who has worked at least 20 hours per week (including being on approved leave) each week during any fiscal year may elect to redeem the annual accrued leave exceeding 480 hours, subject to the four following conditions:

1. Employees may not redeem more than 160 hours of accrued annual leave in a fiscal year;
2. Employees may redeem accrued annual leave under this paragraph no more than once in a fiscal year and the leave must be redeemed between the first day of the last month of the fiscal year and the last day of the last month of the fiscal year; and
3. No annual leave will be redeemed if the Tribe determines in its sole discretion that there are insufficient funds available to do so; and
4. The monetary value of all redeemed leave shall be calculated at the lowest rate at which the employee was compensated during the fiscal year.

Education Contract Employees who have an annual leave balance they accrued prior to becoming an Education Contract Employee may maintain, use, or be compensated for such leave under the same terms and conditions as other tribal employees, provided that no Education Contract Employee may carry over from one contract to the next more than a total of 480 hours of combined annual and personal leave. Employees who are transferred out of the Department of Schools may convert their personal leave balance to annual leave.

A regular full-time or regular part-time employee will be compensated for unused annual leave not to exceed 60 days, (480 hours) at the salary rate he or she is earning at the time of termination of employment, subject to the availability of funds.

If a medically documented illness occurs during an annual leave period, sick leave may be substituted for those days during the vacation when the employee was ill.

An employee who leaves Tribal employment voluntarily and in good standing, and who returns to work for the Tribe within two (2) years of departure, including political appointees and Tribal employees transferring to and from employment within the Business Enterprise Division and the Tribal Government Services Division, may be given a benefit bridge to reinstate their accrual rate for annual leave and may participate in the retirement program without the waiting period, upon approval by the Chief. An employee who believes approval under this paragraph was wrongfully withheld by the Chief may proceed to Step Three of the grievance process established under this Policy.

### C. Sick Leave

Paid sick leave is accrued at the rate of one-half day per full biweekly pay period. At the discretion of the Chief, employees may borrow paid sick leave from themselves in an amount not to exceed the amount they would have accrued by the end of MBCI's fiscal year, or by the end of their budget's program year. During employment, sick leave borrowed by an employee will be repaid through automatic deductions of all annual and sick leave accrued by the employee each pay period, until all borrowed leave is repaid. Upon conclusion of employment, employees who have borrowed sick leave will have those days deducted from their final paycheck. Employees will not be compensated for unused sick leave when their employment concludes. Employees who have a negative balance of sick leave upon conclusion of their employment, and after appropriate deductions from their final paycheck, are subject to civil liability in the Choctaw Tribal Court for the cash equivalent of such sums and attorney fees and costs associated with recovering such sums.

Employees may not accrue the full amounts of sick and annual leave during a pay period when an employee has worked less than 80 hours due in that pay period.

Sick leave may be granted for:

1. Personal illness or physical incapacity;
2. An acute illness among the members of the employee's immediate family (husband, wife, child, grandchild, brother, sister, mother, father, grandmother, grandfather, or any aunt, uncle, niece and nephew who is related to the employee within the 3<sup>rd</sup> degree according to the Nolan Chart of Relationships and Degrees of Kindred); and/or
3. Medical, dental, optical, psychiatric or psychological examination or treatment to the employee by a licensed physician or a traditional Indian practitioner or examination or treatment of a member of the employee's immediate family, if the employee must accompany them to the examination or treatment. For purposes of this policy, the term "immediate family" is the same as stated above in subsection 2.

Whenever the employee has prior knowledge of the need to use sick leave, he or she must make his or her request in advance to the supervisor. When the employee does not have prior knowledge of the need to use sick leave, he or she must contact his or her supervisor as soon as is reasonably possible. The supervisor, in his or her discretion, may require a medical excuse for any absence due to a claimed illness.

Any grant of such leave in excess of two (2) working days must be supported by a medical certificate from either a physician, family nurse practitioner or an Indian practitioner. Female employees, upon certification by an attending physician, will be granted maternity leave to be taken in one increment. Maternity leave may be charged against sick leave, annual leave or leave without pay.

### **Infectious and Communicable Diseases**

The following rules regarding infectious and communicable diseases will be in effect

during any state of public health emergency:

(a) The Tribe is committed to providing a safe and healthy work environment, free of health hazards. This includes protecting employees from communicable and infectious disease spread in the workplace during a state of public health emergency. Tribal employees who believe that they have been exposed or have been diagnosed with a communicable or infectious disease have an ethical and legal obligation to minimize the spread of that disease and are required to immediately self-report the diagnosis to his or her immediate supervisor. Failure to immediately notify the supervisor and/or knowingly expose others may result in further disciplinary action including termination.

(b) If an employee is exhibiting symptoms of a communicable or infectious disease while in the workplace, the Tribe reserves the right to require testing and a health care provider's medical clearance before allowing the employee to return to work.

(c) Due to the nature of communicable disease, employees who have been diagnosed, exposed to, or show signs of significant contagious diseases, whether symptomatic or not, should contact his or her medical provider for further evaluation and/or before returning to the workplace. Supervisors shall report all necessary information to the Director of Human Resources. Every effort will be made to ensure confidentiality of information received as a part of this policy and to protect the privacy of all parties involved. Sharing information of an employee's self-report of diagnosis of any communicable or infectious disease and/or any medical information relating to the diagnosis is strictly prohibited and may be grounds for disciplinary action including termination.

### **Alcohol and Drug Abuse**

Illness due to alcohol or drug abuse: If an employee is absent from work for more than three (3) days as a result of the effects of alcohol or drug abuse, sick leave shall not be granted, and the employee shall be given leave without pay; provided, however, that if the employee is institutionalized in a licensed institution, sick leave shall be granted. For purpose of this paragraph, a medical certificate must be signed by a medical doctor and the signature of a traditional Indian Practitioner shall not be acceptable.

### **Transfer of Sick Leave**

When an employee retires or leaves MBCI employment, he may transfer up to 100 hours of accrued sick leave to any employee of the Tribal Government Services Division. Any other accrued sick pay or accrued sick leave is placed into the Leave Bank for use by other employees of MBCI.

Leave donated shall be valued according to its cash value based on the lowest rate of pay applicable to the leave at the time it is accrued. Leave donated will be distributed to the recipient employee in accordance with its cash valuation up to 100 hours of sick leave based on the cash value of the leave to the recipient employee based on the recipient employee's rate of pay in effect at the time the leave is distributed to the recipient employee. The result is that the number of hours of leave donated may differ from the number of hours received if the rate of pay of the donor and the recipient are different.

Employees should be aware that there are tax consequences associated with the donation of accrued paid leave. The tax consequences for leave donated through a bona fide employer sponsored leave sharing plan – such as the Voluntary Leave Transfer Program set forth in Part XV of this Policy -- are discussed in Part XV of this Policy. The donation of sick leave from one employee to another outside of the Voluntary Leave Transfer Program is not through a bona fide employer sponsored medical leave-sharing plan and therefore results in different tax consequences. Specifically, the dollar value of all leave donated outside of the Voluntary Leave Transfer Program is includible in the donor employee's gross income under § 61 of the Internal Revenue Code, and is also "wages" of the donor employee for employment tax purposes. *See* IRS PLR-152644-06 at 7 (Feb. 9, 2007); *see also* IRS Rev. Rule 1990-29. With regard to the recipient employee, he or she is not treated as the recipient of "wages" subject to employment tax. *Id.* at 7. However, the leave received may be includible in the recipient employee's gross income under § 61, and each employee should seek independent counsel on the issue. *See id.* The Human Resources Department shall make a reasonable effort to notify employees of the taxability of the donation and/or receipt of leave outside of the Voluntary Leave Transfer Program.

#### **D. Bereavement Leave**

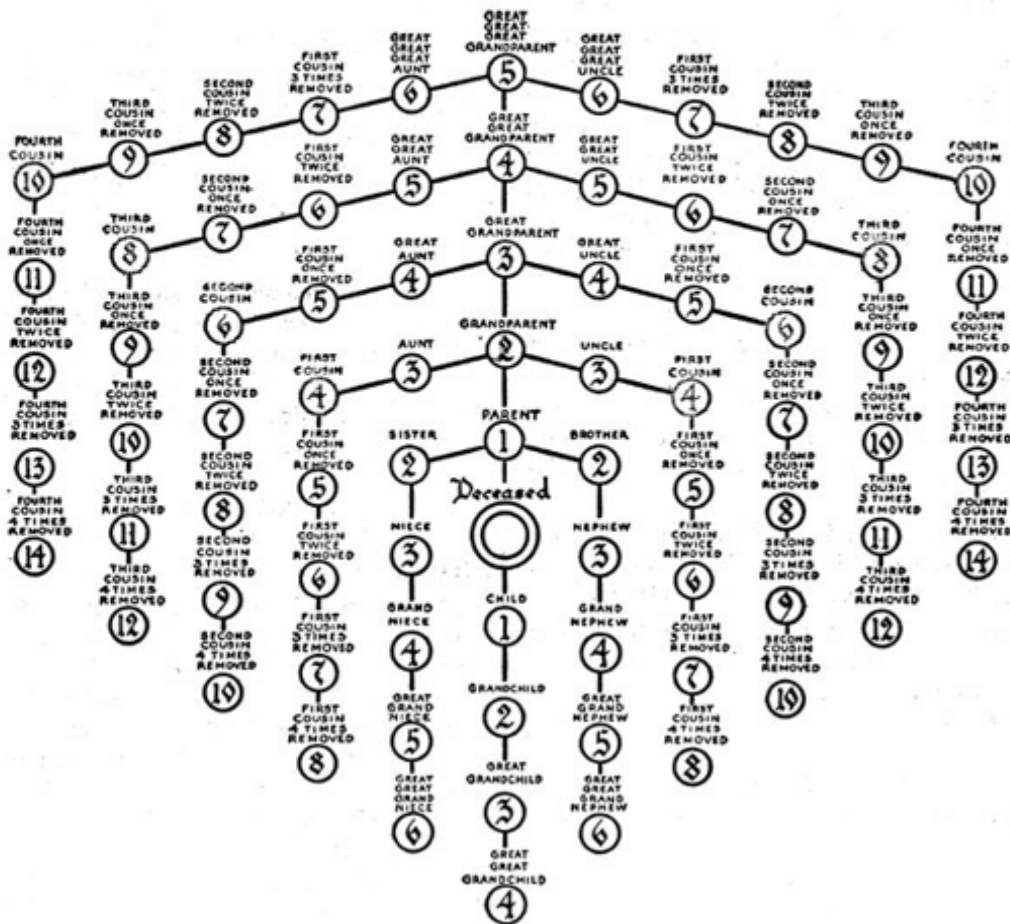
Employees are entitled to two (2) paid days of bereavement leave for the death of immediate family members as the term is defined in the sick leave policy. Bereavement leave must be approved by your supervisor and may be used in one (1) day increments not later than three (3) work days after the funeral or memorial service.

Any employee who is an ordained minister, and who registers as such in the Office of Human Resources, may receive up to eight (8) hours of Administrative Leave per bi-weekly pay period for conducting the funeral services of MBCI members. Documentation must be provided to the employee's supervisor in the form of an obituary or funeral program which lists the minister's name as having conducted the funeral service. The documentation should be attached to the Time and Attendance records.

#### **E. Personal Leave**

Education Contract Employees are eligible for personal leave. Such leave shall accrue at the beginning of each contract period at the rate of two days for the first three years of employment, three days for the next seven years of employment, and seven days thereafter. In addition, school employees who have more than three years continuous employment with MBCI and who have a contract period more than the standard school year will accrue additional personal leave hours. The additional personal leave hours will accrue, at the same rate as other regular full-time employees accrue annual leave, during pay periods worked that are not included in the standard school year. Educational Contract Employees will be compensated for unused personal and annual leave, subject to the same limitations as other non-contract employees

**The NOLAN CHART \***  
of  
**RELATIONSHIPS and DEGREES of KINDRED**  
According to the Civil Law



Encircled numerals indicate degree of kindred to the deceased. Straight lines indicate the lower person as issue of the next preceding higher person. Full cousins are indicated in red (shaded). On the chart, all cousins above full cousins are *cousins in the ascendancy*, all below are *cousins in the descendancy*. Consult State Statutes of Descent and Distribution for rights of persons of each relationship and degree of kindred.

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### **XIII. FMLA (FAMILY AND MEDICAL LEAVE POLICY)**

MBCI complies with the Family and Medical Leave Act of 1993 (the “Act” or “FMLA”). The following briefly describes eligibility and notice requirements for those employees needing to take FMLA leave. For further information, please contact the Office of Human Resources.

#### **A. Eligibility**

To be eligible for FMLA leave, an employee must have at least one (1) year of service with MBCI, have worked at least 1,250 hours during the twelve (12) month period preceding the commencement of the leave, and must work at a location employing fifty (50) or more employees in a seventy-five (75) mile radius.

#### **B. Description of Time-Off Benefit**

An eligible employee is entitled to a total of twelve (12) workweeks of unpaid leave subject to subsection F during a twelve (12)-month period for one (1) or more of the following reasons:

1. The birth of a son or daughter and to care for such child;
2. The placement of a son or daughter with the employee for adoption or foster care;
3. To care for a spouse, or son, daughter, or parent, if such spouse, son, daughter or parent has a serious health condition; and/or
4. A serious health condition that makes the employee unable to perform the functions of his or her position.
5. A qualifying exigency arising out of the fact that a spouse, son or daughter (of any age), or parent is a covered military member, is on active duty (or has been notified of an impending call or order to active duty) in the National Guard or Reserves or is a retired member of the Armed Forces or Reserves and has been notified of an impending call or order to active duty in support of a contingency operation.

An eligible employee who is the spouse, son, daughter, parent, or next of kin of a current service member of the Armed Forces, including the National Guard or Reserves, may take up to 26 weeks of Military Caregiver Leave to care for a service member who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. This 26 weeks of Military Caregiver leave is measured in a “rolling 12-month period.” The amount of time which may be taken for Military Caregiver Leave will be determined by the balance in an employee’s 26-week leave entitlement period, measured backward from the date of the employee’s most recently requested FMLA start date. This is a rolling 12-month period.

The leave entitlement described in this policy applies on a per covered service member, per injury basis. However, no more than 26 weeks of FMLA, Active Duty, or Military Caregiver Leave may be taken in the rolling 12 month time period described above.



**C. Employment of Both Spouses**

If both spouses are employed by MBCI, they will be limited to a combined total of twelve (12) weeks if the family leave is due to the birth or placement of a child, or serious health condition of a parent. Each may take up to twelve (12) weeks, however, if the leave is for his or her own serious health condition or to care for a child or spouse with a serious health condition. When both spouses are employed by MBCI, service member caregiver leave is limited to a combined 26 work weeks during the relevant 12 month period, counting all leave based on FMLA and Active Duty leave.

**D. Intermittent Leave and Leave on a Reduced Basis**

FMLA leave taken because of the serious health condition of either the employee or a covered family member can be taken intermittently (*i.e.*, not all at once) or through a reduced work schedule if the health care provider certifies that such arrangement is medically necessary. When an employee takes leave intermittently or through a reduced schedule, that leave will be subtracted from the amount of the employee's remaining available leave on an hour-for-hour basis.

Leave taken due to the birth or placement of a child must be taken in one unbroken period unless approved in advance by MBCI. Decisions regarding requests for intermittent or reduced work schedule leaves in birth, adoption and foster care situations will be based on the business needs of MBCI.

**E. Calculation of the 12-Month Period**

The twelve-month period in which the twelve (12) weeks of FMLA or the twenty six (26) weeks of Military Caregiver leave may be taken is a "rolling" twelve-month period, measured backward from the date an employee commences any FMLA leave. Thus, each time an employee commences FMLA leave, the amount of FMLA leave entitlement will be any balance of the twelve (12) weeks that has not been used during the twelve (12) months preceding the first day on which FMLA leave commences. Any FMLA leave taken because of the birth or placement of a child must be completed within the twelve-month period following the date of birth or placement.

**F. Required Substitution of Available Annual and Sick Leave**

An employee will be required to use all available annual and sick leave during any leave taken under the FMLA, Active Duty Leave, or Military Caregiver Leave. For example, an employee who has five (5) days of annual or sick leave available, and seeks twelve (12) weeks of FMLA leave, must first use the annual or sick leave during the first five (5) days of FMLA leave with the balance of FMLA leave as unpaid leave. FMLA leave also runs concurrently with workers' compensation leave. Use of Voluntary Leave Transfer Program Emergency Leave shall be included in any calculation of FMLA leave eligibility.

**G. Requests for Leave**

When the need for leave is foreseeable, such as for an expected birth, placement of a child, or planned medical treatment, the employee must provide MBCI with at least thirty (30) days

written notice before the leave is to begin.

If this is not possible, the employee must notify MBCI of the need for leave as soon as practicable, at least within 1 or 2 business days of when the need for leave becomes known to the employee. Failure to provide notice may be grounds for delay of leave and/or disciplinary action for absenteeism.

FMLA requires that you make reasonable efforts to cooperate with MBCI in scheduling FMLA leave to avoid unduly disrupting MBCI operations. Please give MBCI as much notice as possible. Request forms are available through the Office of Human Resources.

#### **H. Certification**

Where leave is taken for a serious health condition, an employee will be required to provide a health-care-provider certification. Employees will be provided with the appropriate form for submission to a healthcare provider. If FMLA leave is requested for a serious health condition, a second medical opinion may be requested at MBCI's expense. If the first and second medical opinions differ, MBCI may pay for a third and final Medical Certification that will be binding on all parties. The employee may obtain a copy of the second and third medical opinions upon written request.

Where the leave is foreseeable and at least thirty (30) days' notice has been provided, the certification should be provided before the leave begins. When the leave is not foreseeable, or less than thirty (30) days' notice has been provided, MBCI will inform the employee when the requested certification must be provided. MBCI may require subsequent medical re-certification on a reasonable basis.

Employees taking leave due to their own serious health condition may be required to provide a certification of fitness for duty prior to returning to work. **Failure to comply with any of the certification requirements may result in disciplinary action, up to and including termination of employment.**

#### **I. Benefits/Restoration of Position**

Ordinarily, an employee who takes FMLA leave will either be placed in the position held when the leave commenced or an equivalent position. However, if an employee fails to return to work on the workday after the expiration of an approved FMLA leave, then the employee will be deemed to have resigned employment.

The taking of FMLA leave will not result in the loss of any employment benefit accrued prior to the date on which the leave commenced. Employees will not accrue any additional benefits during any period of leave under the FMLA, unless annual and sick leave benefits are running concurrently.

During any period that an eligible employee takes FMLA leave, MBCI will allow the employee to maintain coverage under the group health insurance plan for the duration of such leave at the level and under the conditions coverage would have been provided if the employee

had continued in active employment continuously for the duration of such leave. MBCI will deduct any employee's health coverage payment as a regular payroll deduction.

During unpaid leave, the employee will be required to submit premium payments to MBCI if the employee desires to maintain coverage. Payments are due at the same time as they would be made by payroll deduction. Health coverage will cease, retroactive to the last day for which payment was received, if payment becomes more than 30 days late.

If an employee fails to return to work at the end of FMLA leave, the employee will be required to reimburse MBCI for the cost of health coverage paid by MBCI during the unpaid leave unless the employee's reason for not returning to work is directly related to a serious health condition or other circumstance beyond the employee's control.

MBCI may require the employee to periodically report on the employee's status and intention to return to work.

**J. Notification of Rights**

MBCI will provide to any employee who requests leave under the Act additional written guidance regarding the requested leave. MBCI will designate all periods of leave taken by an employee as either FMLA or non-FMLA leave. If you have any questions about the policy, please contact the Office of Human Resources.

**XIV. LEAVES OF ABSENCE**

**A. Military Leave**

Military leave will be granted for a period not to exceed twenty (20) working days in any calendar year. During such Military leave, the employee will receive the employee's normal pay without regard to any compensation received from the employee's military unit for such services. Any military leave of absence required beyond 20 days per year must be taken as annual leave, or leave without pay, as appropriate. Where the military exercise to be participated in is voluntary, granting of leave shall be at the discretion of the Chief.

**B. Extended Leaves of Absence**

Extended leaves of absence without pay may be granted for personal needs such as professional or educational development opportunities, subject to approval by the employee's supervisor and the Chief. An extended leave may not exceed six months from the last day at work. A request for such leave must be in writing, stating the reason for the leave and intention to return to work at a specified date. During the leave, the employee will not earn annual leave or sick leave, and the leave will not be counted for subsequent benefits eligibility or for automatic pay adjustments. On return, MBCI will try to place the employee in the same position or one of the like status and pay. If such position is not available, the employee will be eligible for normal termination benefits. Employees who have less than one year of full-time, regular employment are ineligible to receive extended leaves of absence under this paragraph.

**C. Civil Leave**

An employee subpoenaed or summoned by Tribal Court, Federal Court, State Court, or political subdivision thereof, to serve either as a juror or a witness, for that jurisdiction, may be granted civil leave with pay during the period of such service. Request for civil leave must be made to the employee's supervisor in advance, and such request must be accompanied by a copy of the court subpoena or summons.

An employee subpoenaed or summoned in private litigation by some party other than the Federal Government, the Tribal Government, the State Government, or political subdivision thereof, to testify in a capacity that is not official, but as an individual, is ineligible for civil leave. Such employee must take annual leave or leave without pay, as appropriate.

**D. Administrative Leave**

An employee may be granted administrative leave with pay with the approval of his supervisor and the Chief, if, in their judgment, the employee can serve MBCI by temporarily performing duties not specifically related to the job.

In emergency situations, the Chief may excuse any or all employees from duty for all or part of any work day, with pay. Examples of such emergencies would be extreme weather conditions, disaster, or other natural phenomenon which might reasonably prevent employees from working or reporting to work.

The Chief also has the sole discretion to grant administrative leave for an individual or group for governmental or other purposes. If an employee has been approved for annual or sick leave, prior to a day when administrative leave is granted, the period of time covered by the administrative leave will not be deducted from the employee's annual or sick leave.

Administrative leave under this Section D must be approved in writing.

**XV. VOLUNTARY LEAVE TRANSFER PROGRAM (DONATED LEAVE)**

The Voluntary Leave Transfer Program is intended to give employees with accrued leave the opportunity to help those employees with a long-term medical emergency who lack sufficient leave to provide for their income maintenance during extended periods of absence from work.

Employees of MBCI may donate accrued, unused annual leave or sick leave to an Employee Leave Emergency Pool for use by employees who have a medical emergency and have insufficient leave available. Employees entitled to use the Emergency Leave Emergency Pool may not be in a probationary period and must otherwise be eligible for leave. Any request to use the Employee Leave Emergency Pool must be approved by the Office of Human Resources.

Employees should be aware of the tax consequences related to use of the Voluntary Leave Transfer Program Employee Leave Emergency Pool. Under recent IRS guidance, the dollar value of leave received by an employee is includable in the recipient employee's gross income under § 61 of the Internal Revenue Code, and is "wages" subject to employment taxes. *See* IRS PLR-

152644-06 at 7 (Feb. 9, 2007); *see also* IRS Rev. Rule 1990-29. Employees who donate leave are not subject to income tax liability or withholding tax liability in connection with the donated leave time. *See* IRS PLR-152644-06 at 7 (Feb. 9, 2007); *see also* IRS Rev. Rule 1990-29. The Human Resources Department shall make a reasonable effort to notify employees of the taxability of the donation and/or receipt of leave under the Voluntary Leave Transfer Program. IRS guidance on the issue is subject to change, and employees are solely responsible for keeping informed as to those developments.

“Medical emergency” means a serious medical condition of an employee or family member that is likely to require the employee’s absence from duty for a prolonged period and is reasonably likely to result in a substantial loss of income to the employee because of unavailability of leave. A medical emergency must be supported by a physician’s certification that the medical condition is serious and is of expected long duration. All medical conditions that will result in absence from work in excess of the hours an employee is scheduled to work in a bi-weekly pay period are considered a condition of long duration.

“Family member” has the same definition of immediate family under the Sick Leave Policy. To be eligible to participate in the program, an employee must have exhausted all available paid leave and must have been, or reasonably expect to be, on unpaid leave for at least the number of hours in the employee’s biweekly work schedule. Additionally, the employee must comply with procedures in place regarding the Voluntary Leave Transfer Program.

The Office of Human Resources will administer the Emergency Leave Emergency Pool by maintaining a ledger account for the purpose of accepting, distributing, and monitoring donated annual or sick leave. Contributions of annual or sick leave into the Emergency Leave Emergency Pool will be accepted at any time during the year. Only earned leave may be donated. An employee may not donate more than one-half of his or her annually earned annual or sick leave; nor may an employee’s donation bring the sum of his or her accrued annual or sick leave to less than the number of hours the employee is regularly scheduled to work during a bi-weekly pay period. All requests to donate leave to the Emergency Leave Emergency Pool, or to use leave from the Emergency Leave Emergency Pool, must be in writing signed by the employee. An employee may not accrue leave on the leave that has been donated to him or her. Leave donated shall be valued according to its cash value based on the lowest rate of pay applicable to the leave at the time it is accrued. Leave donated will be distributed to the donee in accordance with its cash valuation based on the cash value of the leave to the donee employee based on the rate of pay in effect at the time it is distributed to the donee employee. The result is that the number of hours of leave donated may differ from the number of hours received if the rate of pay of the donor and the donee are different.

No employee may directly or indirectly attempt to persuade, intimidate, threaten, or coerce any other employee in the donating, receiving, or use of annual or sick leave under this program. Any violation should be reported promptly to the Director of Human Resources. A violation of this paragraph may result in disciplinary action up to and including termination.

An employee may not receive more than 200 hours per fiscal year from the Voluntary Leave Transfer Program Emergency Leave Emergency Pool, except that an employee who has exhausted his or her receipt of leave from the Voluntary Leave Transfer Program Emergency Leave Emergency Pool, and has been diagnosed, or whose immediate family member has been

diagnosed, with a life threatening condition the treatment for which is expected to exceed twelve (12) weeks as verified by a licensed physician, may, subject to approval by the Office of Human Resources, receive up to an additional 280 hours of accrued leave per fiscal year from a near relative as that term is defined in subsection C of Part V of this Policy, so long as all other requirements of the Voluntary Leave Transfer Program Emergency Leave Emergency Pool set forth in this Part XV are satisfied.

## **XVI. EMPLOYEE DEVELOPMENT**

### **A. Career Development Plans**

All supervisors and regular employees, in conjunction with their supervisor, shall prepare a career development plan. The supervisor and employee should develop and, at least annually review the plan, which should include:

1. career goal;
2. courses, training sessions, or workshops designed to assist employee in meeting goals; and
3. a timetable for achievement.

A copy of the plan should be given to the employee, the supervisor, and the Office of Human Resources.

### **B. Educational Assistance**

Each employee of MBCI is encouraged to further his or her personal and career development through academic study and other means in order to allow the employee to contribute further service to MBCI. Assistance provided to an employee must not conflict with the employee's regular duties.

#### **1. Employee Initiated Training**

Subject to the availability of program funds, each MBCI Tribal member employed by MBCI may utilize available job-related education assistance funds. This includes any training program, conferences, workshops or classes that are job-related (by agreement between employee and supervisor) and approved by the Chief or the Chief's designee.

Training will normally occur during non-working hours. Employee-initiated education assistance funds utilized by an employee will be tallied anew each fiscal year for purposes of determining an employee's eligibility to further utilize employee-initiated education assistance funds.

Payment of fees for conferences or other training experiences shall be made when recommended by the supervisor, approved by the Chief, and when such plans:

- a. complement Tribal purposes;
- b. benefit the individual's career;
- c. are submitted in advance for approval by the Chief; and

- d. will not interfere with satisfactory discharge of responsibilities even though training may occur during normal working hours.

2. Enrollment in Post-Secondary Educational Courses

MBCI's policy is to allow MBCI Tribal member employees of the Tribal Government Services Division to enroll in part-time classes for four (4) hours weekly or less. However, the Chief may make an exception and grant educational leave of more than four (4) hours per week, but not to exceed ten (10) hours per week, when a degree can be obtained by additional coursework within the same semester. Such enrollment in school and subsequent absence from work is, of course, with the prior approval and written authorization from the employee's supervisor. The program or department's goals and objectives must not be neglected or diminished by an employee's enrollment in classes and absence from work.

**C. Performance Reviews and Corrective Actions**

1. Probationary Performance Reviews

All new employees – except Education Contract Employees, political appointees, and elected officials – serve a 90 calendar day probationary period, beginning on their first working day, to determine whether or not they fully satisfy requirements of the job. Supervisors will carefully monitor performance during this time and will provide regular performance reviews every 30 days to the new employees. The employee may be terminated without notice and with or without cause at any point during this probationary period.

The total probationary period for law enforcement officers will be based on the timeframe for completion of all applicable police certification and training in accordance with Section V.E of the Policy.

2. Annual Performance Reviews

Each supervisor will conduct at least one written performance review annually of each employee they supervise using documented forms for this purpose. The objective of these reviews is to assist employees in their career development and to improve overall effectiveness of tribal operations.

The review will be shown to employees in draft form and discussed with them. At the same time the supervisor and employee will review and, if necessary, suggest revisions to the employee's job description, said suggestions being made to the Office of Human Resources who shall have the final authority to modify the job description, with the approval of the Chief.

Subsequent changes in the performance review may be agreed upon before a final record is made. If agreement cannot be reached, the employee may prepare a separate statement for the record as appropriate. All performance reviews will be signed by both parties, indicating that they have communicated on the subject matter even though they may not have agreed. The Department Director and Office of Human Resources will receive a copy of each written review. Employees will also be given a copy of the final document. For each employee promoted from within the Government Services Division, a performance review is required prior to the completion of ninety

(90) days in the employee's new position.

3. Corrective Action

a. Corrective Action By A Supervisor

A supervisor may, in his or her discretion, subject to any required approvals within the management chain of command, take corrective action in any circumstance where individual job-related performance and/or conduct is below minimum acceptable standards including, but not limited to, the standards of conduct described in this Policy (loosely referred to in this part XVI as "unsatisfactory performance"). Corrective action may include verbal counseling, disciplinary probation, suspension, or termination. Documentation, discipline, and corrective action of unsatisfactory performance is the responsibility of the supervisor.

A supervisor may take Corrective Action, subject to any required approvals within the management chain of command, for unsatisfactory performance, which includes but is not limited to: insubordination, chronic absenteeism or tardiness, repeated failure to complete tasks assigned, refusal to complete required training, breaches of confidentiality, under the influence of drugs or alcohol while on duty, failure to communicate or work effectively with other employees and agencies, or failure to comply with the job requirements or guidelines of the program in which he or she is employed.

If placed on probation, the probationary period generally should not exceed ninety (90) calendar days, but the Chief may extend the period of probation to a total period of no longer than one-hundred-twenty (120) days. Where the Chief elects to extend a probationary period beyond ninety (90) days, such decision must be made in writing. Unlike employees on probation during their first ninety (90) days of employment, employees on disciplinary probation are not subject to termination without cause, and they maintain ordinary employee rights of appeal. If the employee successfully completes the probationary period, he or she must be notified in writing that he or she has been restored to full-time, permanent status. During a period of disciplinary probation, an employee will accrue, but not be able to use, sick leave or annual leave.

Except as provided in sub-subsection b of this subsection 3, suspended employees shall not receive any compensation for the period of suspension, shall not accrue or receive annual leave, shall not accrue or receive sick leave, and shall not receive leaves of absence. During the suspension the employee shall continue to receive disability benefits, health benefits, and insurance benefits. The end of the period of suspension shall not necessarily mean that the employee returns to work. The Chief shall investigate the matter, and shall make a determination of the fitness of the suspended employee to return to normal duties. All suspensions shall run for the full term of the suspension, unless there exists a reasonable basis to end the suspension earlier. Suspension of an employee charged with criminal misconduct that would result in the employee's ineligibility for continued employment where MBCI has determined there is insufficient other evidence of misconduct on file to warrant personnel discipline, shall be subject to the requirements set forth in sub-subsection b of this subsection 3.

Immediate terminations may result from, but are not limited to, possession and/or use of alcohol, illegal drugs or similar dangerous intoxicants at work; possession or use of deadly



weapons; falsification of records or misrepresentation; theft of MBCI or co-workers' property; serious violation of MBCI's electronic mail and Internet policies; insubordination; sexual misconduct; conduct unbecoming of an employee of the MBCI; working elsewhere while on leave of absence; violation of confidentiality; discrimination against any member of a protected group (race, color, religion, sex, pregnancy, age, national origin, citizenship status, veteran status, physical or mental disability, or genetic information) in hiring, transfer, promotion, training, compensation, benefits or other employment related matters that violates this Policy; retaliation against or harassment of an employee for using the complaint procedure to oppose any kind of discrimination/harassment or for cooperating in an investigation of a complaint of discrimination/harassment; and violations of applicable laws affecting business and industry.

b. Corrective Action By The Chief

The Chief has independent authority, in addition to authority expressly provided to the Chief elsewhere in this Policy, to suspend an employee, with or without pay, for a period not to exceed thirty (30) working days to avert an imminent threat to the health, safety, security, or integrity of the Tribe. Under certain circumstances, the Chief shall have the authority to suspend an employee for not more than sixty (60) working days, of which not more than thirty (30) working days may be paid suspension at the sole discretion of the Chief. These instances will be those in which an employee is charged with criminal misconduct that would result in the employee's ineligibility for continued employment where MBCI has determined there is insufficient other evidence of misconduct on file to warrant personnel discipline. Employees suspended because the employee is charged with criminal misconduct that would result in the employee's ineligibility for continued employment where MBCI has determined there is insufficient other evidence of misconduct on file to warrant personnel discipline shall not be terminated from employment earlier than the date of conviction, guilty plea, or nolo contendere plea, or the end of sixty (60) working days, whichever occurs first. The Chief shall award suspension with pay status retroactively, not to exceed a total of sixty (60) working days, if the employee is exonerated of all charges.

The circumstances under which the Chief may exercise authority to suspend with or without pay for a period not to exceed thirty (30) working days to avert an imminent threat to the Tribe include, but are not limited to, instances where: an employee threatens or commits any act of physical violence; an employee is the subject of allegations (in the case of tribal employees in positions covered by 25 U.S.C. §3207 *et. seq.*) of child sexual abuse or neglect, or of a commission of a violation of federal, state, or tribal law involving crimes of violence, sexual assault, molestation, exploitation, contact or prostitution, or crimes against persons; or the employee knowingly makes material false statements on reports or records.

Where the Chief suspends an employee under this sub-subsection b, the suspended employee must be given written notification that continued employment is in jeopardy and must cooperate with any internal investigation. If the employee is retained, he or she will be told what must be done to improve the situation. With this notice, the employee will be placed on probationary status.

For an employee over whom the Chief serves as immediate superior in the Executive Branch Government Services Division organizational chart, approved by the Tribal Council, the Chief may take corrective action in accordance with the standards set forth in sub-subsection a of

this subsection 3.

Corrective action by the Chief is not subject to the Corrective Interview process set forth in subsection 4 of this Section C. However, the employee enjoys an immediate right of appeal from suspension or termination by the Chief under the grievance process set forth in part XVIII of this Policy.

c. Investigations and Arrests

On occasion, an internal investigation may be required while an employee is suspended pending investigation. If an internal investigation is required, the employee concerned will fully cooperate with the Office of Human Resources or Internal Audit whether on suspension or not.

If an employee is arrested for any criminal offense, that employee must promptly report such arrest to the employee's immediate supervisor and the Office of Human Resources within five (5) working days of the arrest. Failure to report an arrest is grounds for discipline up to and including termination of employment.

4. Procedure

MBCI utilizes a Corrective Interview process whenever a supervisor (but not the Chief) seeks to impose corrective action, beyond verbal counseling, against an employee. The Office of Human Resources maintains a standard form Corrective Interview Report for use in the process, copies of which can be obtained in the Office of Human Resources. Supervisors will administer the Corrective Interview process in accordance with this policy. The supervisor will complete the Corrective Interview Report form and, following a disciplinary conference, secure approval through the appropriate supervisory chain.

- a. The Corrective Interview Report must be completed as fully as reasonably possible under the circumstances upon presentation to the employee, and in such a manner as to reasonably inform the employee of the nature of the corrective action, by including: a factual description of the actions leading to corrective action; a review of past corrective efforts; suggestions of positive corrective steps the employee should take in light of the corrective action; and for anything other than termination, a caution that an occurrence during the period of corrective action, or further violations of the Policy, could result in termination.
- b. Discussion of the Corrective Interview Report must take place promptly upon a supervisor's recommendation that corrective action be taken against an employee, in a private conference between the employees concerned, his or her supervisor, and a witness, preferably another member of management or the Office of Human Resources. If it is not reasonably possible to immediately hold a private conference, such conference must take place as soon as reasonably possible.

- i. It must be explained to the employee that the Corrective Interview Report will become part of the employee's personnel record, and that the employee's future conduct and performance will determine how much weight the report will have in any future situation requiring corrective action and with respect to any future wage increases. Specifically, if there are two or more Corrective Interview Reports in the preceding three (3) years, an employee should expect to receive no, or a lower, salary increase based on performance, or other raise, and MBCI has the right, if approved by the Chief, to deny such an increase. Any employee on probation or suspension at the time a cost of living or other raise is given shall not receive the increase.
  - ii. Except in cases of termination, the conference shall stress performance improvement requirements as specified in the Corrective Action Report.
  - iii. A follow-up conference must be scheduled, if requested by the employee, supervisor, or other MBCI management.
  - iv. Upon completion of the conference, the report will be signed and dated by the supervisor, employee, and witness. The employee must be given the opportunity to write his or her comments on the form. The supervisor will forward the original of the completed report to the Office of Human Resources for filing in the employee's personnel file.
  - v. The supervisor must ensure that any follow-up conference takes place at the scheduled time.
- c. The supervisor, or another member of MBCI management or the Office of Human Resources, must promptly inform the employee of any final disposition of a recommendation for corrective action.

## **XVII. TERMINATION OF EMPLOYMENT**

The end of an employment relationship with MBCI will fall within one of the following categories, with indicated policies applicable to each:

### **A. Resignation**

An employee may voluntarily terminate his or her employment for any reason. Two weeks' notice is requested by MBCI. If the supervisor directs, the resigning employee may be relieved from further work upon receipt of a written or verbal notice of resignation. Any employee absent from work for a period of two (2) consecutive workdays, without daily notification to the supervisor of the reasons for the absence, will be considered as having voluntarily resigned. If an Education Contract employee leaves employment during the period of the employee's contract, the employee's remaining pay not earned will be retained by MBCI, and MBCI may contact the Mississippi Department of Education requesting that the employee's teaching certificate be suspended or revoked.

**B. Mutual Agreement**

An employee and MBCI may mutually agree to end the employment relationship. Under these circumstances, no employment end date notice period is set by MBCI, and a departure date is informally agreed upon within a reasonable time period.

**C. Reduction in Force**

An employee may be terminated when his or her position is being eliminated or reclassified due to reorganization or financial considerations, as determined by the Chief. Any employee terminated due to a reduction in force will be paid one month's compensation after separation of employment.

**D. Unsatisfactory Performance**

An employee may be terminated for unsatisfactory performance, in accordance with the procedures set forth in part XVI.

**E. Retirement**

An employee may voluntarily terminate his or her employment for purposes of retiring from gainful employment with MBCI.

Under most circumstances, and if resources are available, all accrued annual leave pay for which the employee is eligible, not to exceed the maximum number of allowable annual leave hours, may be paid to the employee at the time the employment relationship terminates. Any indebtedness to the Tribe, including the replacement cost of Tribal property not returned by the separated employee within three (3) days of the separation, will be deducted from any available annual leave, or other pay, from the last check.

**XVIII. GRIEVANCE**

Any employee, except new employees in their initial 90-day probationary period, temporary employees, casual employees or political appointees, 1) terminated from employment due to reduction in force, 2) terminated from employment due to unsatisfactory performance or misconduct, 3) demoted for cause, or 4) suspended for any reason by the Chief, may file a grievance on the action. Any employee who wishes to grieve a violation of this Policy, or a civil rights violation, also has the right to file a grievance on the action. A grievant has the right to file written statements or briefs in support of his or her position prior to the hearing. A grievant has the right to be represented by anyone of his or her choice, including an attorney, at no expense to the Tribe. The grievant also has the right to present witnesses on his or her behalf and to cross-examine tribal staff or witnesses presented by MBCI.

**A. Procedure**

Grievances alleging violations of MBCI's Equal Employment Opportunity policy, or policies against unlawful or unethical activities, should be presented to the Director of Human Resources, instead of the supervisor or Department Director. When the grievance is against the

supervisor, the action must be initiated directly with the Department Director. The following procedure will be followed in filing grievances:

1. **STEP ONE-DISCIPLINARY ACTION NOTICE:** The supervisor must meet with the employee as soon as practicable to hand deliver and discuss the Disciplinary Action Notice. The Disciplinary Action Notice form, which shall contain any applicable grievance procedure, will be completed by the supervisor, discussed with the employee during the Step One meeting, and given to the employee during the meeting for signature. A copy of the completed Disciplinary Action Notice should be sent to the Director of Human Resources by the supervisor. The employee may, within three (3) business days, initiate STEP TWO upon completion of the Disciplinary Action Notice meeting.

Grievances related to suspension or termination by the Chief, alleging a violation of MBCI Native American Preference Policy, Veteran's Preference Policy, or Equal Opportunity Policy are not subject to this step and may proceed directly to STEP TWO, by submitting a written request for hearing within three (3) business days of the grievable event.

2. **STEP TWO:** The employee must submit a written request for a STEP TWO hearing to the Director of Human Resources, with a copy to the Chief, describing the grievance or appeal. Within five (5) business days of receipt of the written request, a written notice of the date, time, and place of hearing shall be hand delivered to the employee. The hearing shall be conducted within seven (7) business days after the employee receives the notice of hearing. The Policy & Legislative Officer or other appropriate designee by the Chief shall conduct the hearing, and shall make every effort to resolve the grievance or appeal. The hearing will be held in executive session with all parties and documentation present. Prior to the hearing, the employee may request copies of documentation from Human Resources. A written decision will be completed within five (5) business days by the hearing officer after completion of the STEP TWO hearing, and the written decision shall be hand delivered to the employee.
3. **STEP THREE:** If the grievance is not resolved in STEP TWO, the employee shall, within five (5) business days, request in writing a hearing with the Tribal Personnel Grievance Panel by submitting the request to the Director of Human Resources, along with all written statements or briefs. The Panel shall schedule a hearing on the matter within fifteen (15) business days. The employee and all parties concerned shall be given written notice of the date, time and place of the hearing at least three (3) business days prior to the hearing. The Chair of the Panel shall preside at the hearing on the appeal, which shall be held in executive session, with only members of the Panel and parties to the grievance or appeal present. A written decision will be completed within five (5) business days and sent through certified mail or hand delivered to the employee. The decision of the Panel is final and not appealable to any forum.

**B. Confidentiality**

All aspects of all grievances are confidential, and may be discussed only with the parties concerned with the grievance, and members of the Panel. Breaches of confidentiality shall be treated with appropriate disciplinary actions.

**C. Appearances at Hearings**

The Panel is authorized to compel any and all parties to a grievance to attend any hearings or meetings pursuant to resolving a grievance, if such parties are tribal members, Tribal Council members, supervisors, or employees. The Panel may request other parties to appear at such meetings as it deems necessary.

**XIX. GENERAL EMPLOYMENT POLICIES**

**A. Fraternization**

The relationship between employees, as well as between employees and management, should be professional and must comply with MBCI's harassment and nepotism policies. Supervisors and managers are prohibited from dating or engaging in romantic relationships with subordinates. Such relationships can disrupt the work environment and create potential conflicts of interest.

**B. Dress Code / Appearance**

Employees are responsible for dressing appropriately, whether the job requires business casual, casual attire, or uniforms. Employees must present a neat, appropriate appearance at all times. Wearing outlandish clothing, overly revealing clothing, body piercing, and the like may be prohibited in certain positions or departments. Tattoos, "passion marks," and the like should be covered to the greatest extent possible. An employee who reports to work in a manner which contravenes applicable standards of appearance, including this code, may be required by his or supervisor to exit the workplace until his or her appearance is brought into conformity with applicable standards of appearance. Any time lost due to an employee's failure to report to work in appropriate attire will not be counted as "hours worked" for purposes of the employee's pay. Each Department may establish requirements for employee appearance, which must first be approved by the Office of Human Resources.

**C. Personal Telephone Calls and Mail**

MBCI phones, whether office or cell phones, are for business and personal emergency use. Personal phone calls should be kept to a minimum. Long distance personal calls should not be made without prior permission of a supervisor, and the employee will be charged for any long distance costs. In emergencies, employees may receive personal messages.

MBCI does not permit personal mail to be stamped by an MBCI postal meter. Also, no personal mail should be sent to MBCI as our clerical staff opens all incoming mail daily.

**D. Absence From Premises or Work Area**

If you leave the premises or your work area for any reason (established meals and break periods excluded) during the workday, you should obtain your supervisor's permission, advising the supervisor in advance of where you are going and when you expect to return to your work area and how to get in touch with you in the interim. Nonexempt employees will not be paid if they are away from the premises on non-work related business.

**E. Personal Property**

MBCI is not responsible for loss, damage, or theft of employees' personal property. Employees' personal property is not covered by MBCI insurance.

**F. Personnel Records**

It is important, both to employees and MBCI, that employee personnel records be correct and up-to-date. Employees must notify their supervisors of any changes in address, name, telephone number, marital status, or number of dependents. It is also important that each employee maintains a current telephone number with his or her supervisor so the employee can be advised of unusual operating schedules or events.

Material in employee personnel record file is considered confidential MBCI property. An employee may periodically review his or her personnel record upon request. However, employees will not be permitted to see any letters or notes relating to pre-employment reference inquiries made by MBCI. If an employee wishes to review his or her personnel file, the employee should give written notice to the Office of Human Resources at least twenty- four (24) hours in advance. An employee's review of his or her record will be conducted in the Office of Human Resources.

If, after examining his or her personnel record, an employee believes it contains inaccurate information, the employee must advise the Director of Human Resources, in writing, of any perceived inaccuracy within (48) hours after reviewing the file. The Director of Human Resources will review any such matters and determine whether any corrections are appropriate.

**G. Prohibition from Accepting Gifts, Rewards, or Favor**

The Chief, members of the Tribal Council, Tribal employees, and any other persons who work directly or indirectly with the Tribe are prohibited from accepting gifts, money, or gratuities, which includes meals, from:

1. From persons receiving benefits or services under any program financially assisted by the Federal Government or by the Tribal Government;
2. From any person or agency performing services under contract to the Tribe; and
3. From persons who are otherwise in a position to benefit from the actions of any employees or Tribal Council members.

Gifts, rewards, or favors with a value of \$25.00 or less are excluded. Gifts, rewards, or favors with a value of more than \$25.00 shall be reported to your supervisor. De minimis honorariums for less than \$50.00 for voluntary speaking engagements approved in advance by the Chief are likewise excluded. Honorariums with a value of \$50.00 or more shall be reported to your supervisor.

#### **H. Non-Solicitation/Non-Distribution And Use of Bulletin Boards**

MBCI prohibits unauthorized solicitation by employees at any time in employee areas, or during working time (*i.e.*, when either the employee doing the solicitation or the employee being solicited is required to be performing work tasks). MBCI also prohibits employees from distributing any non-business related literature or materials in any employee areas, or at any time during working time (*i.e.*, when either the employee doing the solicitation or the employee being solicited is required to be performing work tasks). Non-employees may not solicit employees or distribute literature for a non-business purpose at any time on property owned by MBCI, or in which MBCI holds any interest.

Bulletin boards are used to convey information concerning the business of MBCI and employee-related programs. You should check the bulletin boards regularly. No bulletins, notices, announcements, or other material may be posted on bulletin boards, or any other MBCI property, without specific prior approval through the Office of Human Resources.

#### **I. Off-Duty Employees**

Off-duty employees are not allowed access to interior areas of MBCI property except for the purpose of conducting business with MBCI, and with prior approval by the Department Director.

#### **J. Visitors**

Visitors, including family members, are not permitted in employee work areas without the advance approval of a supervisor. Children are prohibited from the workplace at all times for liability reasons. Visitors and applicants for employment must follow established protocol for each office upon arrival.

#### **K. References**

Requests for information on current or former employees will be handled only through the Office of Human Resources. Supervisors, managers, and fellow employees are **not** authorized to disclose any information to outside sources regarding current or former employees. All calls or inquiries should be directed to the Office of Human Resources.

Without a written release signed by the employee or former employee, or lawful legal process, the Director of Human Resources ordinarily will not make available any non-neutral information to outside sources on either current or previous employees. The Director of Human Resources ordinarily confirms or verifies only the dates of employment and last job title of the employee or former employee.



Any further information requested, such as that pertaining to job performance, may be obtained only if the person or organization requesting the information secures the employee's or former employee's written authorization for MBCI to release such data and provides MBCI with a copy of the written release, or if the information is requested through legal or administrative proceedings.

**L. Pagers and Cell Phones**

To facilitate accessibility, some employees may be asked to maintain Tribally-issued activated pagers and/or cell phones.

As a matter of safety for employees and the traveling public, any employee who operates a vehicle while conducting, or in furtherance of, MBCI business should not use a cellular phone while driving. In the event an employee needs to use a cellular phone, the employee should first remove the vehicle from traffic. Employees with an appropriate hands-free or Bluetooth device may be excluded from this requirement if the communication does not cause or serve as a distraction to operating the vehicle.

**M. Use of Equipment and Property**

MBCI prohibits the use of Tribal equipment or property by any employee, outside person, or outside organization for purposes not expressly sanctioned by MBCI. Employees are further prohibited from lending or disposing of any such equipment or property for such purposes. If an employee is uncertain whether a proposed use of Tribal equipment or property is expressly sanctioned by MBCI, the employee should ask his or her supervisor. An employee who violates this policy, or materially contributes to a violation of this policy, must pay actual costs of the equipment or property if it is damaged or lost. Additionally, any employee who fails to notify a supervisor of lending or use of Tribal equipment or property in violation of this policy is subject to pay actual costs of the equipment or property if it is damaged or lost. Equipment includes automobiles, tractors, trailers, computers, typewriters, electronics, and any other property belonging to the Tribe.

Violations of this policy can also result in disciplinary action up to and including termination.

**N. Monitoring, Inspection, and Waiver of Privacy Rights**

While limited personal use of MBCI-provided communication systems is permitted, employees have no privacy rights in their personal use of MBCI communication systems. Except as provided in this Section N, MBCI has the right to monitor and inspect all information on and/or usage of any MBCI-provided communication system at any time, for any reason, and without further notice. To the extent an employee uses his or her own personal equipment – such as a personal computer, thumb/portable drive device, or smartphone – for conducting or in furtherance MBCI business, MBCI has the right to inspect and retrieve from said device any proprietary information stored or located thereon.

With regard to employees of the Tribal Government Services Division, the Chief has the sole authority to authorize the monitoring and inspection provided for under this Section N. Provided, that the Chief must maintain a log of all such monitoring and inspection, except as directed pursuant to a warrant issued by a court of competent jurisdiction. Such log must include, but is not limited to, the following information: the date and time of the monitoring or inspection; target(s) of the monitoring or inspection; the factual basis for such monitoring or inspection, if any; and the person(s) who conducted the monitoring or inspection. Each entry must be signed by the Chief and the person(s) who conducted the monitoring or inspection. All entries into the information log must be preserved for a period of at least five (5) years, and must be made available upon order by the Tribal Court for good cause shown.

Monitoring or inspection of communication systems utilized by the legislative and judicial branches of the Tribe shall be conducted under policies adopted by those branches of government only. Monitoring or inspection of communication systems utilized by the legislative and judicial branches of the Tribe through any other mechanism or means is prohibited, except as directed pursuant to a warrant issued by a court of competent jurisdiction.

Available technology allows the review of e-mails sent or received (even after they are deleted) and review of Internet web sites viewed by an employee. If an employee wants personal information and/ or personal use to be private, then the employee must not use MBCI-provided communication systems for such purposes. To further ensure their privacy, employees should instruct individuals in their social and familial circles to abstain from communicating non-business information to the employees at work and/or by use of MBCI-provided communication systems.

Employees must ensure that their personal use does not interfere with job performance or violate any policies in this Policy or the Network Use Policies. Employees utilizing or having access to MBCI computers or communication systems are required to be familiar with MBCI's Network Use Policies, which are issued separately to employees.

#### **O. Prohibited Uses**

Employees may use MBCI-provided communication systems only in a manner that complies with MBCI policies. Employees are prohibited from any use of MBCI-provided communication systems regarding information that:

1. Violates MBCI's policies relating to harassment, discrimination, retaliation, illegal conduct, unethical conduct, or violence;
2. Discloses any confidential, trade secret, and/or other privileged information to any unauthorized person;
3. Violates any license or copyright;
4. Interferes with employee job performance;
5. Creates a conflict of interest; or
6. Adversely affects the interests of MBCI.

Further, employees may not use any personal computer or other communication device in violation of any MBCI policy. If an employee uses a personal communication device in such a manner, including a computer, iPhone, Blackberry, or the like, such device is subject to all

applicable policies regarding searches, and must be turned into the Office of Human Resources for cleaning of Tribal material upon termination of employment.

**P. Business Records and Confidentiality of Information**

All information related to MBCI business is the property of MBCI and should be treated as confidential information. Employees must respect the confidential nature of information concerning MBCI's business, employees, and customers. Employees may access, copy, remove, or disseminate MBCI business records only if duly authorized to do so, and then only for the purpose of MBCI's business. Employees must never discuss MBCI business with anyone outside MBCI, including their spouses or other family members.

**Q. Surveillance and Searches of Persons And Property**

MBCI's Security or Police may conduct video surveillance of public areas on or within MBCI property (all areas except locker rooms or restrooms).

All property furnished to employees by MBCI (office, vehicle, desk, computer, locker, cell phones, storage area, etc.) remains the sole property of MBCI and is subject to inspection and/or search by MBCI at any time, for any reason, and without further notice; provided, that all such searches and inspections must be recorded in the same log and in the same manner prescribed in Section N of this part XIX.

Subject to the Constitution and Bylaws of the MBCI, Tribal security or police, upon approval of the Director of Human Resources for reasonable cause, may search and/or inspect any employee or personal property of an employee (vehicle, purse, briefcase, etc.) on MBCI governmental premises. Or located within MBCI property including but not limited to vehicles, or when an employee is on duty. Employees should not bring any articles, materials, or other belongings on MBCI governmental premises or property including but not limited to vehicles, store them in or on MBCI property, or bring them with the employee while on duty, if the employees wish to avoid inspection of same.

By signing the Acknowledgment and Consent form, each employee is knowingly and voluntarily consenting to surveillance and search by authorized personnel of MBCI.

**R. Use of Automobiles**

When no MBCI vehicle is available and a supervisor determines it is necessary for an employee to use the employee's personal automobile for tribal business requiring trips in excess of five (5) miles roundtrip from the employee's regular worksite, the employee will be reimbursed at the prevailing federal rate. On extended trips, automobile mileage reimbursement may not total more than round trip economy airfare. Employees operating their personal automobile on a reimbursable basis must possess liability insurance and a valid driver's license.

**S. Smoking / Tobacco Use**

Smoking and/or use of smokeless tobacco products is prohibited in MBCI buildings or

MBCI vehicles. **Smoking is allowed only in other areas designated by the Chief.** Smoking is prohibited on the campus of the Choctaw Health Center and all CHC healthcare facilities.

**T. Jury Subpoena or Summons for MBCI Tribal Court**

All employees, whether Indian or non-Indian, are required as a condition of employment to respond and comply if subpoenaed or summoned by the MBCI Tribal Court to appear as part of the jury pool in certain cases where MBCI is exercising special domestic violence criminal jurisdiction involving a non-Indian defendant. Failure to comply with a subpoena or summons issued by the MBCI Tribal Court may result in disciplinary action taken against the employee. The Civil Leave provisions under Section XIV.C shall apply to any employee who is required to comply with a subpoena or summons under this subsection. Anyone who fails to comply with a lawful subpoena or summons by the MBCI Tribal Court may also be subject to civil or criminal penalties as provided in Section 1-3-10 of Title I, Rule 16 of Title II, and Section 3-8-2 of Title III of the MBCI Tribal Code.

Pursuant to Rule 17(i)(2) of Title II of the Choctaw Tribal Code, as amended, the Office of Human Resources is authorized and directed to provide a list of all employees, whether Indian or non-Indian, including the employee full name, address, and telephone number, to the MBCI Court Administrator, starting on July 15, 2019, and then with an updated list to be provided on an annual basis by October 1 of each year.

**XX. TAPING/EAVESDROPPING ON CONVERSATIONS**

It is the policy of MBCI to encourage open communications among MBCI employees, political appointees, elected officials, and their respective advisors. To facilitate such open communications, and to prevent the chilling effect that may occur if employees, officials, or advisors are permitted to tape or secretly record or surreptitiously listen in on any conversation or communication, and to ensure compliance with applicable federal, state, and local wiretapping, eavesdropping, and privacy laws, MBCI has instituted the following policy:

Except as set forth elsewhere in this part, nobody may openly or secretly tape or otherwise surreptitiously record, or videotape, any conversations, communication, activity, or event. This prohibition applies to any conversation, communication, activity, or event which in any way involves MBCI, any agency, department, customers or clients of MBCI, or any other individual with whom MBCI is doing business or intending to do business in any capacity (for example, vendors, suppliers, consultants, attorneys, independent contractors). If an employee has any questions or concerns regarding whether any contemplated taping or recording would violate this policy, he or she should discuss the matter with the appropriate supervisor, before engaging in any such activities.

“Taping” and “Recording” under this policy includes the taping or recording of any conversation or communication, regardless of whether the conversation or communication is taking place in person, over the telephone, or via any other communications device or equipment, and regardless of the method used to tape or record (e.g., as with a cell phone, tape recorder, video recorder, mechanical

recording; or wiretapping equipment), and regardless of where the conversation or communication takes place, i.e., whether on or off MBCI's government premises.

“Taping” and “Recording” as used in this policy does not include any lawful taping and recording engaged in by an employee on the employee's own time, with the employee's own equipment, away from MBCI's place of business, and which does not involve in any manner whatsoever, directly or indirectly, the business or activities of MBCI, or any of its employees.

No employee may eavesdrop on the conversations or communications of other employees or non-employees in accordance with the same standards set forth above.

From time to time MBCI may tape, record, videotape, or otherwise monitor conversations or other communications between employees and/or between employees and non-employees for legitimate business purposes. Generally, employees will be notified when such taping or recording occurs, in accordance with applicable laws and sound employee relations principles. Under certain circumstances, however, notice may not be given, such as where MBCI is conducting an investigation into allegedly unlawful or unethical activities, in conjunction with regulatory or other enforcement authorities, such as law enforcement investigation.

Violations of this part may result in disciplinary action against the offending employee(s), up to and including an unpaid suspension or termination of employment. Where the conduct engaged in is illegal, violators may also be subject to prosecution under applicable federal, state, or local laws.

## **XXI. CONFIDENTIALITY OF MBCI INFORMATION**

The nature of business and the economic wellbeing of MBCI is dependent upon protecting and maintaining proprietary MBCI information. During the course of work, employees may have access to highly sensitive confidential and privileged information concerning citizens, customers, clients, vendors, and other employees. All such information is considered confidential and retained within MBCI. Continued employment with MBCI is contingent upon compliance with this policy.

It is the responsibility of all MBCI employees to safeguard sensitive MBCI information. The Office of Human Resources will be responsible for the orientation of employees to ensure enforcement of MBCI confidentiality.

Employees are advised to be most discreet in their handling of confidential and privileged information, even when talking to fellow employees. If there are questions concerning the disclosure or communication of any information, please consult the Office of Human Resources.

Certain information and material is, by its very nature, considered confidential information. The term “confidential information” includes, but is not limited to:

- a. files, papers, documents, and communications related to MBCI customers, clients, and vendors;
- b. personnel records, salary and benefit information, medical records or information, communication to or regarding MBCI employees;
- c. computer systems information, media, and passwords;
- d. negotiations and contracts;
- e. plans and strategies;
- f. financial data, budgets;
- g. inter- and intra-office communications among employees;
- h. information that employees have access to only because of his/her position;
- i. all other information regarding MBCI employees, customers, clients, contractors, and vendors; and
- j. student records.

Confidential information must never be discussed with, or disclosed to, anyone outside MBCI, or with any employee of MBCI who does not require the information in order to perform the functions of his or her job.

All personnel records and information provided to the Tribal Council's Committee on Human Resources, Training and Development under this Policy are confidential information and may not be discussed with, or disclosed to, anyone other than a member of the Tribal Council except by a duly-passed motion or resolution of the Tribal Council.

Files, papers, and documents relating to MBCI and its contractors, employees, computer systems, or computer media, must not be removed from the premises under any circumstances. This includes taking work home, unless given the approval of the employee's supervisor.

To facilitate access to communication systems and computers, passwords or security devices are known and approved by an employee's supervisor. Employee passwords and security codes should not be disclosed to, or used by, any other employee.

Personal computer passwords, and other passwords used by various employees for general access, are considered confidential. All employees are required to keep their passwords secret and protected at all times. Divulging confidential or privileged information may result in personal liability.

Department Directors may institute other rules regarding confidentiality of MBCI information as it relates to the efficient and effective functioning of their work areas. However, such rules shall not conflict with MBCI's policies or with laws regarding whistle blowing and reporting of illegal activities.

**ANY EMPLOYEE COMMUNICATING OR DISTRIBUTING CONFIDENTIAL INFORMATION WITHOUT PRIOR APPROVAL MAY BE SUBJECT TO IMMEDIATE TERMINATION AND SUCH FURTHER LEGAL ACTION AS MBCI BELIEVES NECESSARY.**

**ACKNOWLEDGEMENT & CONSENT**

By this document, I hereby acknowledge the receipt of the Administrative Personnel Policy and Procedures that I have read, understand and will abide by *all* policies contained and referenced in this Policy as a condition of my continued employment. I understand that the Policy is not a contract of employment, express or implied, and does not create binding obligations on MBCI. I also understand that MBCI has the right, at any time, and for any reason, to make changes in all employment policies, instructions, and procedures and with retroactive effect. I further understand that my employment is not for any specific term or period of time, and that the MBCI may take any action concerning my employment, including termination of my employment, consistent with these Policies and Procedures. I further understand and agree that future updates to this Policy may be made and noticed through any means.

I hereby agree to abide by all MBCI policies and to use their specific reporting procedures if I believe I have experienced or witnessed conduct, illness, or injury covered by the policies.

I specifically consent to MBCI conducting telephone monitoring and video surveillance on MBCI premises (other than locker and restrooms), and monitoring and/or inspecting any information on or from MBCI-provided communication systems in accordance with this Policy. Any personal belongings and vehicles are also subject to search for reasonable cause consistent with the Constitution and Bylaws of the Mississippi Band of Choctaw Indians.

I further understand and agree that, if I am terminated or I terminate my employment, I have three business days to return all MBCI property in my possession or signed out to me. I understand and agree that the cost for any unreturned MBCI property, as well as any outstanding debts or negative balance annual leave I owe to MBCI, may be withheld from my final paycheck. I understand and agree that if my final paycheck does not cover the cost for any unreturned MBCI property, outstanding debt, or negative balance sick leave, and I do not pay those amounts to MBCI by December 31 of that year, MBCI may take appropriate legal steps to recover any unpaid amounts owed to MBCI and MBCI will consider those amounts to be gross income and will report those amounts on my W-2 form for that taxable year.

\_\_\_\_\_  
PLEASE PRINT NAME

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE