ROSEBUD SIOUX TRIBE
RESOLUTION NO. 2017-169

WHEREAS, the Rosebud Sioux Tribe is a federally recognized Indian tribe organized pursuant to the Indian Reorganization Act of 1934 and all pertinent amendments thereof; and

WHEREAS, the Rosebud Sioux Tribe is acting under its authority pursuant to Article IV, Section 1(f) of the Constitution and By-Laws of the Rosebud Sioux Tribe; and

WHEREAS, Rosebud Sioux Tribe Ordinance No. 86-08, Section 200, Section 204(A) – Amending or Rescinding, provides that to amend or rescind an ordinance, at least two-thirds of a full legislative body of the Rosebud Sioux Tribe shall be required, unless such an ordinance to be amended or rescinded provides otherwise; and

WHEREAS, the Rosebud Sioux Tribe has enacted Ordinance No. 2007-09 entitled "Rosebud Sioux Tribe Personnel Policies and Procedures Manual" (hereinafter "RST Personnel Manual") to establish and maintain a uniform system of personnel administration that meets social, economic, and program needs of the Rosebud Sioux Tribe; and

WHEREAS, the RST Governmental Affairs Committee recommends the RST Personnel Manual, Article I., Section C. Authority, Subsection 6. Grievance Board, RST Ordinance No. 2009-01 be repealed and in its place, replace with the Rosebud Sioux Tribe Employee Grievance Procedure with a Hearing Officer, and use an alternate hearing officer in case of conflict to provide for the timely and orderly review of disputes regarding: (a) employee terminations; (b) employee discipline; and (c) workplace safety, Exhibit #1 attached; now

THEREFORE BE IT RESOLVED, that the Rosebud Sioux Tribal Council adopts the amendments to the RST Personnel Policies and Procedures Ordinance, Rosebud Sioux Tribe Grievance Procedure, recommended by the Rosebud Sioux Tribe Governmental Affairs Committee; and

BE IT ALSO RESOLVED, that the effective date of the amendments to the Rosebud Sioux Tribe Personnel Policies and Procedures Ordinance shall be upon the final approval by the Rosebud Sioux Tribal Council.

CERTIFICATION

This is to certify that the above Resolution No. 2017-169 was duly passed by the Rosebud Sioux Tribal Council in session on July 19, 2017, by a vote of fourteen (14) in favor, zero (0) opposed and three (3) not voting. The said resolution was adopted pursuant to authority vested in the Council. A quorum was present.

ATTEST:

Julia M. Peneaux, Secretary
Rosebud Sioux Tribe

William Kindle, President
Rosebud Sioux Tribe

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ROSEBUD SIOUX TRIBE

Employee Grievance Procedures

With a Hearing Officer

PROCEDURES

These grievance procedures provide a timely and orderly review of disputes regarding: a) employee terminations, b) employee discipline, and c) workplace safety.

1. Process and Timelines:
   a. The employee must file a written grievance with the HR Director within **10 days** of the termination, discipline or actual or reasonable knowledge of the alleged workplace safety issue. So that an earnest effort can be made to resolve the matter informally, the grievant must discuss the issue with his/her immediate supervisor prior to filing the written grievance.

However, in the case of a termination, such a meeting is not required. Grievance forms may be obtained from the HR. The HR Director shall inform the employee's immediate supervisor and the Hearing Officer about receipt of the written grievance as soon as practicable.

2. The employee's immediate supervisor will meet with the grievant within **5 days** of receipt of the written grievance. The supervisor will provide the grievant with a written response within **5 days** of the meeting. A copy of the supervisor's response shall be filed in the HR Director's office.

3. The employee may request a hearing with the hearing officer by filing a written request with the HR Director within **10 days** of receiving the written response. The HR Director shall notify the Hearing Officer and employee's supervisor about the filing of the request for a hearing as soon as practicable. The HR Director will work with the hearing officer and grievant to schedule a mutually agreeable hearing date.

4. The hearing officer shall provide the employee and employee's supervisor with a written decision no later than **15 days** after the hearing date. The hearing officer shall also provide the HR Director with a copy of the decision for filing in the grieving employee's personnel file.

5. The decision of the Hearing Officer shall be final and binding. A copy of the Hearing Officer's decision shall be provided to the employee and filed in the Human Resources Department employee file.

6. All timelines may be extended by mutual written agreement of the Hearing Officer and employee. Without such agreement, a failure of the employee to adhere to any of the specified timelines shall preclude any further consideration of the grievance.

7. If the last day on which an event is to occur is a legal holiday, the time limit is extended to the next day which is not a legal holiday. A grievance or request for an appeal is considered timely if received by the HR Director during normal business hours or if postmarked by 11:59 p.m. on the due date.

8. If the grievance is not answered within the time limits, at any stage, the employee may proceed to the next available step within 7 **days after the time allowed**.

9. Granting the requested or agreed upon remedy resolves the grievance.

GRIEVANCE REQUIREMENTS

The written grievance must contain:

1. A statement of the pertinent facts surrounding the nature of the grievance.

2. The date the incident occurred or the date the alleged workplace safety concern was discovered.

3. The steps taken to informally resolve the grievance, the individuals involved in the attempted resolution, and the results of such discussion.

4. The specific remedy requested; and

5. A description of the workplace safety rule alleged to have been violated, if applicable. Supervisor's Response: The supervisor's written response to the employee's written grievance must contain:

a. A statement of the date the meeting between the employee and supervisor was held.

b. A decision as to whether the grievance is sustained or denied. Procedure Before the Hearing Officer:

The hearing officer shall define the issues, identifying areas of agreement and identifying the issues in dispute and hear evidence and arguments.

The hearing officer will determine whether the Department acted in an arbitrary and capricious manner.

The hearing officer may require the employee and RST Department to submit materials related to the grievance and witness lists in advance of the hearing in order to expedite the hearing.

The hearing officer shall sustain or deny the decision of the employee's supervisor.

The hearing officer is not given authority to modify the decision made by the employee's supervisor.

The hearing officer is not given authority to grant in whole or in part the specific request of the grievant. Within 15 days after the hearing, the hearing officer will issue a decision in writing indicating the findings and reasons for the decision.

If the hearing officer's decision on any grievance is final and binding.

Hearing Officer's Decision: The hearing officer's written decision must contain:

a. A statement of pertinent facts surrounding the nature of the grievance.

b. A decision as to whether the grievance is sustained or denied, with the rationale for the decision.

ORDINANCE NO. 93-05
ROSEBUD SIOUX TRIBE
January 19, 2012

Ordinance creating the Rosebud Sioux Tribe's Health Board.

The Rosebud Sioux Tribal Council hereby ordains:

Section 1. Creation of the Rosebud Sioux Tribe's Health Board to read as follows:

There is hereby created a board for the Rosebud Sioux Indian Reservation to be called the Tribal Health Board hereafter called the Board. The Board shall operate with participation of individuals and, as much as possible, all interested groups and communities of the Reservation in order to develop and coordinate all health and human service related programs and to improve the health and housing conditions under which people live on the Rosebud Sioux Reservation.

Section 2. Composition of the Board

The Tribal Health Board shall consist of eight (8) members of the Rosebud Sioux Tribal Council, two (2) at large members and the Tribal President for a total membership of eleven (11). Composition of the Board may be amended by the Tribal Council.

Limit at large members to serve on two (2) Committee, Commission, or Boards at one time.

Tribal Program Directors or Coordinators are not allowed to sit on any Committee, Commission or Board of Commission of Tribally Chartered Entities.

Section 3. Terms of Office

The terms of the Council members of the Board shall be coextensive with their terms as member of the Tribal Council. The terms of the at large members shall coincide with the Tribal Council terms.

Section 4. Meetings

The Board shall hold (3) meetings each month with the third meeting flexible during the last week of each month.

Section 5. Quorum

A clear majority of the voting membership of the Board shall constitute a quorum for any meeting.

Any Elected Council Representative and Tribal Vice President who is available at the time a scheduled meeting is to take place, can sit in on that meeting and vote in order to constitute a quorum.

Section 6. Powers and Duties of the Board

There is delegated to and the Board shall be responsible for:

A. Meeting and establishing with the Area Director and Services Unit Director agreement for procedures to handle patient complaints inclusive of a Patients' Appeal Committee, in any health

related issue. To meet with HUD and other pertinent programs to address home improvement issues.

B. Gathering information and data as to health, human services and home improvement resources and unmet needs in health, human services and home improvements of the Reservation Area.

C. Act as an advocate for the Rosebud Sioux Tribe to Indian Health Services Congress for health, human services and home improvement programs, facilities legislation.

D. Compose resolutions and ordinance pertinent to health, human services and home improvement issues affecting the Rosebud Reservation.

E. Will review all non-Tribal health, human services and home improvement activities and approve negotiations, modifications of health, human services and home improvement contracts and/or agreements with consultants and consulting firms with tribal council approval.

F. The Board, acting in its capacity shall hear complaints, concerns and/or actions on employees of health/human services and home improvement employees. All complaints, concerns and actions on employees must be taken up by the appropriate directors before coming to the Board. No complaints, concerns and/or action on employees shall be presented to the Tribal Council before it has been presented in writing and considered by the Board.

G. Shall recommend action involving promotions, reassignments and dismissals of all health/human service and home improvement related directors with Tribal Council approval.

H. Will fully comply with the Rosebud Sioux Tribe's Policy and Procedure in respect to the chain of command and procedure specified.

Section 7. Amendments

The ordinance may be amended by 2/3 of any quorum of the Tribal Council and may be rescinded by a 2/3 vote of the full Tribal Council.

Section 8. Removal of inactive members

The Tribal Health Board may remove an inactive member by two-thirds (2/3) majority vote of the Board with Council approval. If the Board can not get a quorum for three (3) meetings in a row, then the Board comes back to the Council for removal of inactive members.

Section 9. Reimbursement

Council members of the Board shall not receive any compensation for work performed. Non-council members of the board can be reimbursed at a rate approved by the board for board work.

This ordinance, Rosebud Sioux Tribal Health Board Ordinance No. 93-05, rescinds all previous directives, resolutions and other ordinances to an in establishing committees and other boards relating to the Rosebud Sioux Tribe's Health/Human Services and Home Improvement Department.

ROSEBUD SIOUX TRIBE
RESOLUTION NO. 2017-169

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WHEREAS, the Rosebud Sioux Tribe has enacted Ordinance No. 2007-09 entitled "Rosebud Sioux Tribe Personnel Policies and Procedures Manual" (hereinafter "RST Personnel Manual") to establish and maintain a uniform system of personnel administration that meets social, economic, and program needs of the Rosebud Sioux Tribe; and

WHEREAS, the RST Governmental Affairs Committee recommends the RST Personnel Manual, Article I., Section C. Authority, Subsection 6. Grievance Board, RST Ordinance No. 2009-01 be repealed and in its place, replace with the Rosebud Sioux Tribe Employee Grievance Procedure with a Hearing Officer, and use an alternate hearing officer in case of conflict to provide for the timely and orderly review of disputes regarding: (a) employee terminations; (b) employee discipline; and (c) workplace safety, Exhibit #1 attached; now

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ATTEST:

Julia M. Peneaux, Secretary
Rosebud Sioux Tribe

William Kindle, President
Rosebud Sioux Tribe

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Rosebud Agency
Post Office Box 228
Mission, South Dakota 57555

IN REPLY REFER TO:
Executive Direction
(605) 856-2334

AUG 04 2017

Honorable William Kindle
President, Rosebud Sioux Tribe
Post Office Box 430
Rosebud, South Dakota 57570

Attention: Julie Peneaux, RST Secretary

Dear President Kindle:

The following resolutions, received in this office on August 02, 2017 have been reviewed and re-routed to the appropriate branches.

Resolution No. 2016-273 amended 6/20/2017
Resolution No. 2017-71
Resolution No. 2017-152
Resolution No. 2017-169✓
Resolution No. 2017-199
Resolution No. 2017-200
Resolution No. 2017-201
Resolution No. 2017-203
Resolution No. 2017-206
Resolution No. 2017-208
Resolution No. 2017-209
Resolution No. 2017-210
Resolution No. 2017-211
Resolution No. 2017-212
Resolution No. 2017-213
Resolution No. 2017-214
Resolution No. 2017-216
Resolution No. 2017-217

Sincerely,

Superintendent

Enclosure

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William Kindle, President
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DEFINITIONS

- Representation: Both the employee and the Department Director may be assisted by a representative of their own choosing in person or by teleconference at any point during the grievance process.
- Costs: Any expense incurred by an employee in investigating, preparing, or presenting a grievance shall be the sole responsibility of the employee. Each party (employee and employer) shall bear its own costs for witnesses and all other out-of-pocket expenses, including possible attorney fees.
- Definitions for terms used in this document: "Days": means calendar days, excluding legal holidays.
- "Discipline": means any employment action that results in disciplinary suspension without pay, disciplinary reduction in pay or other benefits, disciplinary demotions and terminations. The term "discipline" does not include verbal notices or reminders, written reprimands, performance evaluations, documentation of employee acts and/or omissions in an employment file, non-disciplinary demotions, non-disciplinary adjustments to compensation or benefits, actions taken to address job performance such as establishment of a performance improvement plan or job targets; placing an employee on paid leave pending an internal investigation; or other personnel actions taken by the employer for non-disciplinary reasons.
- "Hearing Officer": means the impartial hearing officer required is selected by the HR Director to serve as the hearing officer such as: a lawyer, a professional mediator/arbitrator, a retired judge, or other qualified individual. The hearing officer shall not be an employee or member of the Rosebud Sioux Tribe.
- "Termination": means a discharge from employment for rule violations, poor performance, acts detrimental to the employer or other acts of misconduct. The term "termination" does not include: a voluntary quit, completion of seasonal employment, completion of temporary assignment, completion of contract, layoff or failure to be recalled from layoff at the expiration of the recall period; retirement, or termination of employment due to medical condition, lack of qualification or license.
- "Workplace Safety": means any alleged violation of any standard established under state law or rule or federal law or regulation relating to workplace safety.