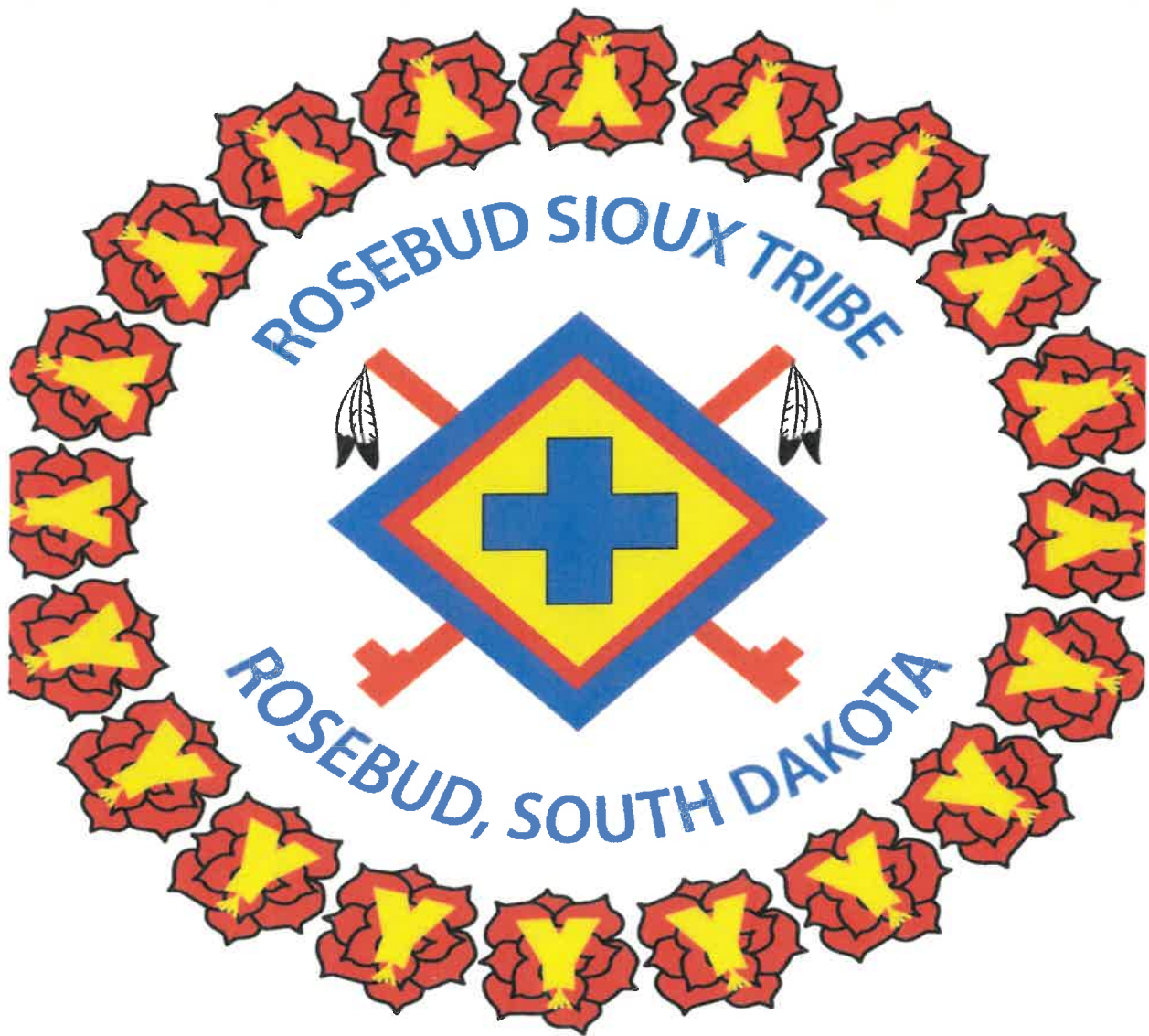


# Personnel Policy and Procedure Manual

## Ordinance No 2020-10

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Resolution No. 20-175



*Approved: August 13, 2020*

ROSEBUD SIOUX TRIBE  
PERSONNEL ORDINANCE 2020-10

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**ADOPTED BY THE ROSEBUD SIOUX TRIBAL COUNCIL ON AUGUST  
13, 2020 AS PERSONNEL ORDINANCE 2020-06**

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**1. PERSONNEL STRUCTURE AND MANAGEMENT**

**Section A. Purpose.**

The purpose of this Personnel Policies and Procedures Manual is to establish and maintain a uniform system of personnel administration that meets the social, economic and program needs of the Rosebud Sioux Tribe (RST). It is also intended to provide standards of fairness and merit

**Section B. Tribal Governance Exemptions from Personnel Policies and Procedures.**

*Sub-Section 1.* Except as otherwise provided herein, this Personnel Policies and Procedures Manual, shall NOT apply to: Elected and Constitutional Officers of the Tribe: Tribal President, Vice-President, Secretary, Treasurer, Sergeant-at-Arms, the members of the Rosebud Sioux Tribal Council.

*Sub-Section 2.* Unclassified positions: political and committee appointees and contract consultants. Political appointees do not follow the Personnel Policies and Procedures Manual but they can receive employee benefits, 401K, and cash awards as given to employees.

*Sub-Section 3.* Tribally chartered entities: Any other programs expressly authorized by Tribal Council to have their own separate Personnel Policies and Procedures Manual. Supplemental Personnel Policies and Procedures Manuals authorized herein do not qualify as separate Policies and Procedures. i.e. Rosebud Casino, TLE, SWA, REDCO, Tribal Ranch, etc. If one of these entities loses its charter or does not have one for whatever reason, they will automatically fall under the RST Policies and Procedures. Head Start, TECRO, and Gaming Commission have their own policies and each of one these departments have their own Board of Directors who govern them.

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**Section C. Authority.**

**Sub-Section 1. RST Tribal Council and Tribal President.** The Rosebud Sioux Tribal President has oversight over all RST Employees according to RST Constitution, Council has authority over budgets, policies, and procedures through the adoption of Resolutions and Ordinances as they deem necessary. The Tribal Council will take appropriate action against any Director for mismanagement of their designated Department as recommended by the RST President. Any substantive changes that affect the established rights of the employee (as set forth in this Personnel Policy and Procedure Manual) shall require adoption by Resolution and Ordinance of the Tribal Council.

**Sub-Section 2. Personnel Committee.**

The Personnel Committee shall review and recommend legislation for concurrence by the Tribal Council. All legislation offered to the Tribal Council shall be researched by the Committee. All proposed legislation, messages, petitions, memorials and other matters relating to the following subjects shall be referred to the Personnel Committee:

**(a) Implementation,** update and amendments to the RST Personnel Ordinance relative to determining which positions are subject to a political appointment and, thereby, made at the discretion of the Tribal Administration.

**Sub-Section 3.** Act as liaison between the Tribal Administration and Tribal Council in regard to personnel matters.

**Sub-Section 4.** Keep abreast of all tribal, state and federal laws involving the civil rights of tribal employees.

**Sub-Section 5.** Other duties set forth in this Personnel Policies and Procedures Manual.

**Sub-Section 6.** Any grievances and/or complaints that come to the Personnel Committee will be referred to the HR Director/Employee Relations Specialist for appropriate processing. Will not be allowed to bring to Council.

**Section D. Chain of Command.**

Employees in tribal service are required to adhere to chain of command (see Organization Charts located in Departments). Any breach of their chain of command will be referred to the appropriate level and that employee may be subject to disciplinary action up to and including termination. Any employee who breaches their Chain of Command by going directly to the RST President and/or Vice President and to any



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Tribal Committee or Council member will be directed back to their Supervisor, if the issue is concerning their immediate supervisor the employee will then be directed to their Director, if it is concerning their Director they will then be allowed to take their issue to the HR Director for further guidance and if the employee is found to have violated the Chain of Command will be disciplined.

**Section E. Enforcement.**

Enforcement of all personnel policies and procedures is the responsibility of the Human Resources Director and of the Director of each Tribal Department with the approval of the Tribal President or his/her designee.

**Section F. Management Rights and Employee Responsibility.**

**Sub-Section 1. Responsibilities of Public Service.** Tribal employees shall demonstrate the highest possible standards of personal integrity, truthfulness, and honesty in all public activities to inspire public confidence and trust in Tribal institutions. Such standards include, but are not limited to:

(a) Dedication to the highest ideals of honor and integrity in all public and personal relationships.

(b) Affirmation of the dignity and worth of the services rendered by the tribal government and maintain a constructive, creative, and practical attitude toward community affairs and a deep sense of social responsibility as a public servant.

**Sub-Section 2. Employment Affidavits.** All RST employees are required to sign an Employment Affidavit Form (provided by the Human Resources Department) by which the employee swears:

(a) To support the Constitution of the RST.

(b) To adhere to the confidentiality

(c) To not participate in any strike against the RST or any agency thereof.

(d) To not solicit or accept any payment or consideration from anyone in return for securing a tribal position or appointment.

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**Sub-Section 3. Manual Contents.** The contents of this Personnel Policies and Procedures Manual is presented as a matter of information only and does not create a personnel action (PA) by implication and the rights and privileges granted employees are only those specifically stated. It is important for employees to understand that RST Council reserves the right to modify, revoke, terminate, or change any or all plans, policies or procedures, in whole or in part, at any time, with or without notice. Additionally, the RST Council may maintain other, equally valid, policies adopted by the Tribal Council to guide the Tribe in administration of its programs and day-to-day activities.

**Sub-Section 4. Role of Employees.** All employees are expected to be familiar with and comply with RST personnel policies and procedures, particularly those that apply to their own duties and responsibilities. Employees will be required to sign a certificate of receipt of the policy handbook this certificate will be placed in the employee's personnel file.

**Sub-Section 5. Role of Management.** Directors are responsible for utilizing and applying established personnel policies and procedures consistently in dealing with human resource issues. They are encouraged to seek advice from the Human Resources Director, as needed, in addressing employment issues. Directors are responsible for developing and maintaining current departmental organizational charts and job descriptions for each position under their supervision. The job description shall set forth the elements for each position and specify whether the position is considered "non-exempt" or "exempt". A copy of both documents shall be filed with the Human Resources Director. Job descriptions may be modified by Directors with the concurrence of the Human Resources Director and the Tribal President.

**Sub-Section 6. Role of the Human Resources Department.**

**(a) Human Resources Director**

The Human Resources Director is retained by the Tribal Council and supervised by the Tribal President and shall be hired in accordance with policies and procedures set forth for Directors. The Human Resources Director shall be experienced in management and administration and be knowledgeable of good personnel procedures and shall be responsible for the day-to-day maintenance and operation of the Tribal Human Resources Department.

**Section G. Personnel Records**

**Sub-section 1. Location and Confidentiality.** The Human Resources Director shall establish and maintain official personnel records for RST

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employees. Employee records shall be located at the Human Resources Office or other locations for secured storage purposes under restricted access. All staff assigned to the Human Resources Department will adhere to strict confidentiality procedures regarding employee files. Employee files shall not be removed from the Human Resources Office except by authorized personnel. If a department chooses to keep a “shadow personnel file of their employees, the department director will be liable for any breach of confidentiality for any personal information that may be obtained illegally from that file. If they have taken it upon themselves to keep that unofficial record of their employees, it is up to that Director to keep that file under lock and key.

***Sub-Section 2. Examination of File by Employee or Supervisor.***

An employee and/or his/her immediate supervisor may examine the employee’s personnel file upon written request to the Human Resources Director. Examination of records shall be in the presence of the Human Resources Director or authorized representative. A personnel file cannot be removed from Personnel for any reason unless approved by the Human Resources Director.

***Sub-Section 3. Contents.*** Employee records shall include information such as employment applications, background investigations, letters of reference, pay and benefits, personal identification (such as driver’s license, tribal ID, social security card), training and education, performance evaluations, corrective or termination actions, and other necessary information as specified by the Human Resources Director. All personnel files shall be reviewed periodically by the Human Resources Director but critical documentation relative to an employee’s performance is never purged. However, any adverse information relative to an employee’s performance will only be considered if it remains relevant to the employee’s current performance, and if by Grievance has been ordered to be expunged from their file. A Grievance may also order to expunge a negative report such as a suspension and possibly a termination.

The contents of an Employee record/file may not include keeping of personal records of said employee such as birth certificates of family members, other personal records of said employee other than those identified above.

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**Sub-Section 4. Release of Information.** Individual employee information may be released to a third party only with an Authorization of Release of Information signed by the employee. Certain information contained in the employee file is considered public information and therefore may be released without employee authorization. These include, but are not limited to title, department and work site.

**Sub-Section 5. Record Retention.** Upon termination, an employee's personnel record shall be considered inactive, but will be maintained for a period of three years (current year, immediate past year and the year after that) beyond date of termination. After three years, the record may be archived by the Human Resources Director for a period of 10 years.

**Section H. Prior Policies and/or Resolutions Rescinded.** On the date these Personnel Policies and Procedures Manual takes effect by Resolution and Ordinance of the Tribal Council, it shall supersede and replace all previously adopted policies and procedures, and resolutions addressing the personnel management requirements contained herein.

However, this Manual shall not supersede or replace the Personnel Policies and Procedures established by chartered programs or other Tribal agencies that are authorized to adopt Personnel Policies and Procedures applying to their employees.

**II. EMPLOYMENT CLASSIFICATIONS**

**Section A. Regular RST Employees**

**Sub-Section 1.** Regular Full-time Employee regularly works the normal forty (40) hour work week and is eligible for all fringe benefits subject to completion and documentation of a performance evaluation period ("Probationary Status") of ninety (90) calendar days.

**Sub-Section 2.** Regular Part-Time Employee regularly works less than forty (40) hours per week and is expected to follow a fixed work schedule. Part-time employees will earn half of the number of annual and sick leave based on the number of hours in actual pay status for each pay period. Regular part-time employees are also eligible for fringe benefits subject to completion and documentation of a performance evaluation period ("Probationary Status") of ninety (90) calendar days.

**Sub-Section 3.** Shift and 24/7 Employee is a regular full time employee who is required to work on special schedules or considered 'on-call' for 24/7 (i.e. police department, ambulance service, security, housing, etc.). These employees will be granted a waiver from normal work hours by

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their immediate supervisor to reflect their actual hours of work and their schedule will be filed with the Human Resources Director. Rotating shift and 24/7 employees are eligible for all fringe benefits subject to completion and documentation of a performance evaluation period (“Probationary Status”) of ninety (90) calendar days.

**Rotating shift and 24/7 Departments will adopt their own supplemental personnel policies and procedures adjusting those provisions in this Manual which do not accommodate the unique work duties of these programs, including, but not limited to, overtime/compensatory time; work schedules; lunch/break schedules.**

Except for these accommodations, however, this manual shall apply to rotating shift and 24/7 Departments. Such supplemental policies and procedures must be approved by the Human Resources Director who shall recommend approval/disapproval to the Tribal Council.

**Sub-Section 4. Non-exempt and Exempt Employee** classifications are determined by reference to employees as either “exempt” or “nonexempt” under the FLSA Guidelines, the Rosebud Sioux Tribe is a sovereign nation they have elected to only use the FLSA Law as it pertains to Non-Exempt for hourly employees which Directors are considered hourly as they are required by Tribal Council to Clock in and out. This also pertains to Overtime rules as it deals with Tribal department budget restraints.

**(a)Exempt Employees.** In determining which employees are exempt, the Human Resources Director and Director of each Tribal Department. RST Council has determined that all RST Directors will not earn overtime or comp time.at anytime as an Exempt Employee and will be considered hourly employees.

**(b)Non-Exempt Employees.** All support staff are considered “non-exempt” and must account for, and attest to, every hour of their workday. Non-exempt employees are entitled to minimum wage provisions and overtime/compensatory time awards for actual hours worked more than a 40/hour work week.

**Sub-Section 5. Essential Employees:** All employees that perform an essential service when the Tribe must suspend services or work for severe weather, natural disaster or related hazard and as designated by the RST President and/or designee. They may work the hours over and above their normal work hours and will receive over time which will not include the Director should that Director be called to work during that time. As all essential employees are compensated for over-time, they will not be awarded a special cash award for their work during inclement weather, a natural disaster or related hazard should EPP be called by the President.

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(See Essential Employee Policy which was approved by RST Council through Resolution).

**Sub-Section 6. Probationary Employee.** Newly hired employees of RST are required to be on probationary status for the first ninety (90) calendar days of their employment. At the discretion of the employee's immediate supervisor, the probationary period may be extended for an additional thirty (30) to ninety (90) calendar days. Throughout this period, the employee's performance will be closely monitored and guided. An employee can be terminated if their performance is not up to the department's standards or cannot perform their duties as required during this time per current performance evaluation, or the employee's status may be changed to regular status. An employee is not considered Regular Full Time or Part Time until a Personnel Action has been completed stating "Completion of Probation Period" If the employee changes job positions (within the same or different RST department), they will have a performance evaluation done as it relates to the new position in 30 days. If the employee is not performing, the employee will then be put on a 90-day probation and if they continue not to perform, they may be terminated and will not be allowed to transfer out.

**Sub-Section 7. Temporary and Trainee Employees.** A temporary employee's employment period will not exceed ninety (90) calendar days for any single individual. Temporary employees are not eligible for fringe benefits including earning annual or sick leave.

(a) A trainee is any person employed by the Tribe under a training program or project for a defined limited period of time and is considered a temporary employee. Trainees are not eligible for benefits (i.e. insurance, annual and sick leave).

(b) Trainees or employees who apply for a job with RST may be hired at the age of 18. No Exceptions!

**Sub-Section 8. Grant Employees** have a time-limit appointment that will be subject to End of Employment at the end of the grant period. The grant employee will not be allowed limited employee fringe benefits, as outlined in an employee agreement entered prior to the employee's acceptance of the position. A grant employee will receive a written notification from the Employing Dept setting forth what they are eligible for as stated by the Grant requirements for the duration of the job. Grant employees are not considered regular full-time or part-time employees of the RST as their employment has a beginning and ending date of employment and as such

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do not qualify for limited benefits (vision/dental insurance, life insurance) Unless the grant allows for the limited benefits plus sick and annual leave the grant has to stipulate in their budget that it is allowed because annual leave is paid out at the end of employment.

**Sub-Section 9. Emergency Hires** is a temporary employee used to perform specific assignments, including supplementing staff. Emergency hire for any single individual may be granted for a period of thirty (30) calendar days; one thirty (30) day extension may be granted for a total of NTE sixty (60) days.

Sub-Section 10. Seasonal Employees – employee works only during a specific time during the year and can also be determined on funding availability. Seasonal employees are considered a temporary employee with no benefits and will be hired for a period NTE 6 to 9 months. These positions will need to be advertised and can be put on furlough status due to funding only.

**Sub-Section 11. Furloughed/Laid Off Employees** - is when an employer places an employee into temporary non-duty, non-pay status because of budget issues, lack of work, or other non-disciplinary reasons. Furloughs may be voluntary or mandatory and are different from normal layoffs because employees continue to work on a reasonably regular basis. An employer will institute a furlough by scheduling employees to have certain days off without pay.

**Sub-Section 12. Political Appointees** Are not subject to these Policies and Procedures Staff of President or Vice President are considered political appointees, and conditions of employment shall be set forth in a job description and all such employees shall serve under the direction of the President and Vice President. No Political Appointee position is allowed decision making authority relative to hiring, firing or salary administration. No Political Appointee can supervise an RST employee.

**Sub-Section 13: Contract Employees:** **RST does not have contract - employees.** A Contractor is hired through a Contract Agreement and work through Procurement and Finance. An independent contractor has the right to control or direct only the result of the work being done and how it will be done. The earnings of an independent contractor are subject to Self-Employment Tax and will submit invoices to RST Procurement, the paperwork is handled out of Finance and NOT the Personnel Department, and do not adhere to the RST Policies and Procedures. Contractors are NOT entitled to benefits as a full-time employee and do not earn annual leave or sick leave. You cannot write in a set amount of annual leave that carries from year to year. An Independent Contractor receives the same amount of pay whether they are at work.

## II. EMPLOYMENT CONDITIONS AND PROVISIONS

### A. *Hiring Practices.*

**Sub-Section 1. Advertising.** RST fills position vacancies by the following advertising procedures:

(a) The RST Program Directors, in conjunction with the Human Resources Director, issues a written vacancy announcement describing the duties and responsibilities of the position, the position title, beginning salary, requirements for the position, qualifications and closing date. A complete job description is made available to the applicant, upon request.

(b) A formal vacancy announcement is posted in the tribal building, aired over radio stations and advertised through newspapers, when feasible. All costs associated with advertising are to be borne by the appropriate program.

(c) Vacancy announcements must be posted for a minimum of five (5) working days no advertisement can be pulled until the 5<sup>th</sup> day minimum has been met but not to exceed ten (10) working days, unless a longer announcement period is needed to attract a sufficient number of qualified applicants. In this case a written memorandum is to be written to the Human Resource Director for approval of an additional ten (10) working days. Any position that requires a longer advertising period may be designated as "Open until Filled" in cases of hard to fill positions.

(d) Director positions are advertised through notice from the Tribal President. Once notified HR will immediately advertise for a period of 30 days minimum.

(e) All newly funded and newly created positions must be advertised, except for political appointees. Any position title change that does not have a change of added duties, responsibility and/or change in salary does not have to be advertised. This can be done with concurrence with the Human Resource Director and the Tribal President.



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(f) Emergency hires need not be advertised but will be limited to a two months duration Not to Exceed Sixty (60) Days in duration.

(g) In-house promotions, other than for newly created positions, need not be advertised if the position remains within the department and the promoted full-time employee meets all the qualifications for the position.

#### 2. Applicant Requirements

(a) All applicants must complete the appropriate employment application, attach appropriate documents, and submit the application packet to the Human Resources Department. No applications will be accepted after 5:00 p.m. on the closing date.

(b) The Human Resources Department require all applications to be logged in and a file will be set for all applications received. These applications will be given (as a panel of applicants) to the Director after the closing date. Applications for Director positions will be referred to the Tribal President who then recommends to Tribal Council.

#### 3. Interview Process

(a) All applications received for the advertised position will be first reviewed and rated by the Human Resources Director. A 'point system' is used as an initial rating tool to assist in applicant selection for interviews. Substantiating documentation is required as an attachment to the application for each point category. The points are assigned by the Human Resources Director and will only be made available to the proper authority who is conducting the interview process. The application of the point system is strictly confidential and may not be shared with the applicant. Point awards are NOT a guarantee of employment.

(b) Interviews will be scheduled for all qualified Director applicants using the Point System as a reference and the names of those applicants who are selected for interview will be given to the Human Resource Director. If an applicant misses his/her interview without proper justification and prior notice will not be considered for the position.

#### 4. Reference/Background Checks

(a) Directors that require to conduct reference checks if position requires it. These notes are placed in the employee's personnel file.

(b) Pre-employment background checks are required for any position whose duties involve regular or incidental contact or control over children and elders. See Attorney General's Guidelines for details of background check requirements and procedures.

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(c)The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 requires the employer to complete an "I-9" form for any new hire. This form requires two forms of identification that confirms that a person is eligible for employment in the United States. If an employee is unable to present the required document(s) within three (3) work-days of the date of hire and does not present a receipt to prove he/she has applied for the necessary documents, the RST may immediately terminate their employment.

**5. Hiring Preference**

**(a)Veteran Preference.** Applicants with veteran's preference are given a priority hiring status over equally qualified applicants who do not have a veteran's preference. To be eligible for preference, a veteran must meet the eligibility requirements in section 2108 of Title 5, United States Code which means that an honorable or general discharge is necessary. Any applicant claiming veteran preference must supply proof of active duty service and proof of honorable discharge or general discharge under honorable circumstances.

**(b) Indian Preference.** This Indian preference policy applies to recruitment, hiring, training, and transfer and will be applied in the following hierarchy:

- (1) First preference for any and all employment and/or training on the Rosebud Reservation shall be given to the members of the Rosebud Sioux Tribe.
- (2) Second preference shall be given to members of other federally recognized tribes.
- (3) Eligibility for member preference; qualifications and experience standards. To be eligible for application of the Tribal member preference policy, Tribal members must meet the qualifications and experience for the job. If an enrolled Rosebud Sioux Tribal member meets the qualifications and experience the job shall be offered to the member notwithstanding that there is a non-member candidate with better job qualifications and experience.
- (4) If a Tribal member candidate and a non-member candidate(s) compete for the same Tribal job and a non-member candidate is hired, the Tribal member may challenge the decision to the RST HR Director and if the

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HR Director upholds the decision to hire the non-member applicant based on qualifications and experience.

**6. Conditional hiring of non-member for a position.**

As a condition of consideration for and employment in a Tribal position, a non-member shall enter into a written agreement (form available from the Human Resources Director) with the Tribe by which the non-member agrees to resign from his/her position upon notice by the Human Resources Director;

(1) That an RST tribal member who meets equivalent or above the qualifications for the position as described in the job description, if it is within the 90-day probation period of the hire date, and

(2) The HR Director has determined to place the tribal member in the job. With all due consideration to non-member tribal employees, the Human Resources Director shall give such non-member employee at least one month's written notice of enforcement of the resignation agreement. Such action shall not be deemed as unsatisfactory performance on the part of the employee unless such is the case. If a non-member employee loses his/her position, they may be transferred to another open position if he/she meets the qualifications for the position and there is no qualified tribal member who applies for such position

**7. Hiring/Rejection of Applicants**

**a. Hiring**

The Director shall make the selection of an applicant for a position in tribal service within their Department. An applicant is not hired until all required signatures are obtained on the Personnel Action and in Workforce `Go System. The Tribal Council shall make the selection of a Director in tribal service. The Tribal Council's decision shall be final unless challenged according to section B (Indian Preference)

**b. Nepotism - Hiring of Relatives**

1. To promote consistency and equity in the treatment of all employees, to prevent breaches in confidentiality, to prevent improper influences in employment and to prevent the perception of favoritism, the Rosebud Sioux Tribe will not employ, in any position, the immediate relatives of current employees, if;
  - a. One is directly supervising the other on a regular basis,
  - b. There is potential for creating an adverse effect on supervision, security, or morale, or the potential for a conflict of interest.

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2. For purposes of this policy the term “relative” is defined as an individual who is related by blood or marriage to the employee as a father, mother, son, daughter, brother, sister grandmother, grandfather, uncle, aunt, cousin, nephew, niece, husband, wife, father-on-law, mother-in-law, sister-in-law, brother-in-law, stepfather, stepmother, stepson, stepdaughter, step-sister, step-brother, half-brother or half-sister.
  3. If an employee becomes related after employment and a conflict such as described in the above paragraph is created; or, if a re-organization creates such a conflict, ninety (90) calendar days will be allowed to resolve the matter voluntarily or by transfer of one of the employees, If that is not possible, the employee with the most recent date of continuous employment will be released.
  4. Employees, members of the Rosebud Sioux Tribe Council or other committees capable of influencing hiring, evaluation, or other employee actions, and who are related to employees covered by these policies, shall refrain from influencing all actions having to do with such relatives.
  5. All applicants for positions with the Rosebud Sioux Tribe shall indicate on the official application form whether they are related to any employee in the department where they are applying for a position. This information will be used to determine possible conflicts of interest involving the position. If an applicant knowingly answers questions untruthfully concerning the relationship, and this fact later becomes known, the employee will be terminated immediately.
- c. **Directors:** No person shall be employed for a position in a Department who is an immediate family member of the Director of the Department.

**(1) Other Supervisory Personnel**

No person shall be employed or promoted to a position when, as a result, he/she would be directly supervising or receiving direct supervision from a member of his/her “immediate family” (see Definitions). Direct supervision is defined as the first level above or below the person involved.

**(2) Grandfather Clause**

This policy shall not apply to RST employees who are currently employed in a position. However, the policy shall apply at the time they have a change in position.

**Written notification of rejection.** A written notification of rejection will be sent to all applicants within 5 days by the Personnel Department upon completion of the hiring process.

Applications must be retained by the Human Resources Department for a period of thirty (30) days after the selection has been made and the hiring process is completed. At the end of this period, the applications will be destroyed if they have not been picked up.

d. **Reasons for rejection by Directors.** are not specified to the unsuccessful applicant but may include:

- (1) applicant does not meet qualification requirements for the position
- (2) record of unsatisfactory employment
- (3) use of political pressure to secure an advantage
- (4) receptive or fraudulent information in application
- (5) sixty-day ineligibility period as set forth in termination provisions
- (6) unsatisfactory background investigation showing applicant's background is not in compliance with the program's requirements

**8. In-House Promotions and Transfers**

- a. **Promotions within the Same Department.** An employee who is promoted to a position with higher rate of pay will automatically be put on probation for sixty (60) days in the new position in the same department. At the end of the sixty (60) day probation, the Director in concurrence with the Human Resources Director, has the authority to extend the probation period by thirty (30) days. If at the end of the initial, or extended, probation period, the employee is not meeting performance requirements for his/her new position a demotion may be warranted and a possible drop in wages.
- b. Demotion of a regular (full-time or permanent). A Director may impose a demotion upon consulting with the HR Director to an employee based on Performance and due to a Disciplinary Action to move an employee from a position with higher pay to a position with lower salary.

**9. Inter-departmental Transfers.** Inter-departmental transfers must be approved by both Departments, the affected employee, the Human Resources Director, and the Tribal President. Any transfers to other Departments will be evaluated after 30 days on a performance basis, if employees is not performing will be put on probation for 90 days and could be terminated if still not performing.

- a. **Promotions or Transfers of Directors.** All such promotions or transfers must be approved as set forth in (b) above and are on probation status as set forth in (a) above.
- b. **Accrued Leave for Transfers.** If the employee remains in continuous service with no break in service prior to the transfer, up to eighty (80) hours of accrued annual leave may be transferred to another Department; any remaining amount must be used or paid out prior to the transfer. Accrued sick leave can also be transferred if it does not exceed 160 hours. "Chartered entities" are exempt from this Manual; therefore, this provision does apply to such entities. Transferring of the annual leave and/or sick leave from one department to another should be authorized by both Directors involved before the transfer due to budget constraints.

**B. Dual Employment (or Moonlighting).**

An employee may obtain part-time employment with another tribal entity, providing both the Director and the Human Resources Director concur in writing that there is no interference with existing job duties and that there is no apparent conflict with working schedules or other conflict of interest. Any request for such employment must be made in writing by the applicant and approved by the Director affected by such a dual employment arrangement. A copy of the

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approval form will be retained in the employee's personnel file. However, no employee may be employed in two positions within the same program or any other tribal program (due to new time system), nor, can Department Directors hire RST Employees under a Contract.

**C. Performance Evaluation.**

All employees are subject to semi-annual and annual performance evaluation. The evaluation is conducted by the employee's immediate supervisor and a written performance summary is placed in the employee's personnel file. If an employee receives an unsatisfactory evaluation at their semi-annual evaluation (mid-year) they have 6 months to improve through a Performance Improvement Plan (PIP), an evaluation of employee on a Performance Improvement Plan (PIP) will be evaluation on a quarterly basis. If the evaluation is the same at the Annual Evaluation (end of the year) the employee may be subject to disciplinary action, up to and including termination.

**D. Employee Orientation**

Orientation will be scheduled for all new employees by the Director (or his/her designee) of the Department the employee is being hired into. Newly hired Directors of Tribal Programs will be orientated by the Human Resource Director.

**E. Personnel Action Process.**

All appropriate paperwork relative to a personnel action must be completed by the specific Department/Program Director before the employee's first day of work. Personnel Action forms will be provided by the Human Resources Department staff and must be submitted to the RST Human Resources Department. Steps must be followed as below:

**Step 1.** Before affixing signatures to the Personnel Action form, the Human Resources Department must log in the action form and making sure the Personnel Action has the right attachments before processing them and then affix a control number (upper right hand corner on the PER line). All New Employees are required to sign their new hire Personnel Action and their Ending Personnel Action.

**Step 2.** The Personnel Action form is then taken to the Executive Secretary in the Finance Office where it must be logged in and dated (Date Received line). The Executive Secretary then forwards the Personnel Action to the Program Monitor.

**Step 3.** The Personnel Action form will then be routed to the RST Finance Executive Secretary where it is logged out and returned to the Human Resources Department.

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**Step 4.** The Human Resources Director will sign the Personnel Action form (bottom of Personnel Action on the APPROVED: Human Resources Director line). It will then be taken to the Tribal President for final signature (Tribal President line) and returned to the RST Human Resources Department.

**Step 5.** The Personnel Action form will be separated and filed as follows: White Copy to Payroll Manager in Finance Office; Pink Copy retained in Human Resources Department for personnel file; Yellow and canary copies (two) to the requesting Program.

This process may take 3 to 5 working days and a payroll check will not be issued until the Payroll Manager in the Finance Office receives a completed Personnel Action form. A Personnel Action form may not be “walked through” unless HR Director has approved for extenuating circumstances. Employees should not start at their new worksite unless a completed Personnel Action has been completely signed off it is equally important that personnel files be kept current. If an employee has their name changed for any purpose, a Personnel Action form needs to be completed to reflect that change and appropriate court documentation attached including change of address.

WFG Onboarding will follow the same process as above but will be routed/workflow within the WFG System.



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**III. STANDARDS OF CONDUCT**

**A. General Employee Conduct.**

Employment with the RST carries with it a special obligation of trust that imposes responsibility to conserve and protect public resources, funds and materials and all employees are expected to conduct themselves in a manner reflective of integrity, honesty, impartiality, and professional behavior. During working hours, employees are expected to meet responsibilities such as regular and prompt attendance, expected productivity, appropriate work attire and appearance and a pleasant and cooperative demeanor with co-workers and the public. All RST standards of conduct also apply when the employee is on travel for RST business. Other specific standards of conduct are an integral part of the RST policy and are set forth below. Violation of RST standards of conduct may result in disciplinary action up to and including termination. If an employee was found to have mismanaged the RST resources, funds and/or materials. They are not be allowed back to work with the Rosebud Sioux Tribe for one (1) Year and may not be allowed to return to that same position that they were removed from because of mismanagement. They are however after one year be able to apply for another position in another department.

**B. Confidentiality**

Employees shall not disclose confidential information obtained by reason of their employment with the RST, nor use such information for their economic benefit or the economic benefit of any other person. Every employee will sign a confidentiality agreement upon hire. (See Attached)

**C. Political Activities**

Any employee cannot serve on any commission, board of commissioners, and/or political activities and participation on committees, boards and commissions due to a conflict of interest.

Employees who choose to run for any elected tribal office shall not be terminated from employment during the election process. But cannot campaign while on job for the Rosebud Sioux Tribe. However, an employee successfully elected to the position of Tribal President or Vice-President or to a Council Representation Office will be required to resign from employment immediately upon certification to office.

**D. Conflict of Interest.**

An actual or potential conflict of interest occurs when an employee is able to influence a decision that may result in personal gain for the employee or for an

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immediate family member. When an employee is approached by others to use influence, or believes that personal relationships, interests, or business will bias the employee's influence or decisions on Tribal purchases, transactions, leasing arrangements, or other transactions, the employee is required to disclose this information to his/her immediate supervisor immediately. (A Conflict of Interest Statement should be signed by all employees. (See attached Conflict of Interest Form)

**1. Conflict with Tribal Duties.** Any tribal employee's private interest of a political or other nature that conflicts with or raises a reasonable question of conflict of interest with tribal duties shall not be permitted. It is the employee's responsibility to disclose any potential conflict to their immediate supervisor.

**E. Dress, Grooming and Appearance Standards.**

Dress, grooming, and personal hygiene contributes to the morale of all employees and affects the business image of the RST to clients and the public. Therefore, during business hours or when representing the RST, employees' dress, groom, and personal hygiene should be appropriate for the work they do. The following modes of dress, grooming and appearance are expressly prohibited during working hours (halter and tube tops; strapless sun dresses; shirts with slogans or large-letter advertising; shorts and skirts shorter than mid-thigh; sweat suits/warm-up suits; sweat pants tank tops and muscle shirts (unless approved for certain program activities); ripped, disheveled clothing; extreme forms of hairstyle and make-up; visible hickeys).

The propriety of questions concerning modes of dress, grooming and appearance other than those listed above will be resolved by the employee's immediate supervisor. An employee may be asked to leave the workplace until properly dressed or groomed. Under such circumstances, the employee will not be compensated for the time away from work.

**F. Sexual Harassment Policy.**

The Rosebud Sioux Tribe is committed to providing a workplace that is free from sexual harassment. Sexual harassment in the workplace is against the law and will not be tolerated. When the Department determines that an allegation of sexual harassment is credible, it will take prompt and appropriate corrective action.

**1. What Is Sexual Harassment?**

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

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- a. An employment decision affecting that individual is made because the individual submitted to or rejected the unwelcome conduct; or
- b. The unwelcome conduct unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or abusive work environment.

Certain behaviors, such as conditioning promotions, awards, training or other job benefits upon acceptance of unwelcome actions of a sexual nature, are always wrong.

Unwelcome actions such as the following are inappropriate and, depending on the circumstances, may in and of themselves meet the definition of sexual harassment or contribute to a hostile work environment:

1. Sexual pranks, or repeated sexual teasing, jokes, or innuendo, in person or via e-mail.
2. Verbal abuse of a sexual nature.
3. Touching or grabbing of a sexual nature.
4. Repeatedly standing too close to or brushing up against a person.
5. Repeatedly asking a person to socialize during off-duty hours when the person has said no or has indicated he or she is not interested (supervisors should be careful not to pressure their employees to socialize)
6. Giving gifts or leaving objects that are sexually suggestive.
7. Repeatedly making sexually suggestive gestures.
8. Making or posting sexually demeaning or offensive pictures, cartoons, or other materials in the workplace.
9. Off-duty, unwelcome conduct of a sexual nature that affects the work environment.
10. A victim of sexual harassment can be a man or a woman.
11. The victim can be of the same sex as the harasser.
12. The harasser can be a supervisor, co-worker, other Department employee, or a non-employee

**2. The Department's Responsibilities Under This Policy**

If the Department Director receives an allegation of sexual harassment, or has reason to believe sexual harassment is occurring, it will take the necessary steps to ensure that the matter is promptly investigated and addressed. If the allegation is determined to be credible, the Department Director will take immediate and effective measures to end the unwelcome behavior. The Department is committed

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to act if it learns of possible sexual harassment, even if the individual does not wish to file a formal complaint.

The Rosebud Sioux Tribe Human Resource Office is main contact point for questions or concerns about sexual harassment. RST Human Resource's responsibility is to investigate and/or oversee any investigations of alleged sexual harassment. Rosebud Sioux Tribe is committed to ensuring that all investigations of sexual harassment are conducted in a prompt, thorough, and impartial manner.

Supervisors and other responsible Department officials who observe, are informed of, or reasonably suspect incidents of possible sexual harassment must immediately report such incidents to which will either initiate or oversee a prompt investigation. Failure to report such incidents to RST Human Resources will be considered a violation of this policy and may result in disciplinary action. RST Human Resources will provide guidance as needed on investigating and handling the potential harassment. Supervisors should take effective measures to ensure no further apparent or alleged harassment occurs pending completion of an investigation.

The Department will seek to protect the identities of the alleged victim and harasser, except as reasonably necessary (for example, to complete an investigation successfully). The Department will also take the necessary steps to protect from retaliation those employees who in good faith report incidents of potential sexual harassment. It is a violation of both federal law and this policy to retaliate against someone who has reported possible sexual harassment. Violators may be subject to discipline.

Employees who have been found by the Department to have subjected another employee to unwelcome conduct of a sexual nature, whether such behavior meets the legal definition of sexual harassment or not, will be subject to discipline or other appropriate management action. Discipline will be appropriate to the circumstances, ranging from a letter of reprimand through suspensions without pay of varying lengths to separation for cause. A verbal or written admonishment, while not considered formal discipline, may also be considered.

### **3. Employees' Rights and Responsibilities Under This Policy**

Any employee who believes he or she has been the target of sexual harassment is encouraged to inform the offending person orally or in writing that such conduct is unwelcome and offensive and must stop.

If the employee does not wish to communicate directly with the offending person, or if such communication has been ineffective, the employee has multiple avenues for reporting allegations of sexual harassment and/or pursuing resolution.

Employees are encouraged to report the unwelcome conduct as soon as possible to a responsible Department official. It is usually most effective — although it is not required—that the official be within the employee's supervisory chain. Responsible Department officials include first or second line supervisors, the offending person's supervisor, management, the Tribe's President and Elected Officials. In addition to reporting sexual harassment concerns to a responsible Department official,

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employees who believe they have been subjected to sexual harassment may elect to pursue resolution in several ways, including:

- Mediation is an informal way to resolve office problems using a trained mediator who facilitates communication between the parties to the dispute. If an employee chooses to attempt resolution through mediation, management is obligated by Department policy to send a representative to the table. If a resolution is not reached, the parties may continue to pursue their rights in any other appropriate forum. Employees may ask for the assistance of a mediator by contacting Human Resources.
- Grievances: Individuals who are not covered by the Tribe's grievance procedures cannot bring grievances on EEO matters. Tribal employees who are covered by the grievance procedures may only file a grievance alleging sexual harassment authorized through the grievance procedures as approved by the RST Council.

#### **4. Contact Information**

Rosebud Sioux Tribe Human Resources Department can be contacted by telephone at (605) 747-2381 Ext. 354, or by email at [jennifer.croweagle@rst-nsn.gov](mailto:jennifer.croweagle@rst-nsn.gov).

All Department employees, including but not limited to staff, supervisors, and senior officials, are required to comply with this policy. Employees are also expected to behave professionally and to exercise good judgment in work-related relationships, whether with fellow employees, business colleagues, or members of the public with whom they come into contact in the course of official duties. Further, all employees are expected to take appropriate measures to prevent sexual harassment. Unwelcome behavior of a sexual nature should be stopped before it becomes severe or pervasive and rises to a violation of law.

**G. Smoke-Free Workplace Smoking Policy.**

The RST provides a smoke-free work environment to its employees. Smoking will not be tolerated at any time in any RST Office Building(s) and/or Office(s) other than specifically designated areas. Smoking is also disallowed in RST owned vehicles, and GSA Tribal Vehicles. Employees who smoke will be allowed the same amount of time as designated by policy which is the normal break time of 15 minute in the morning and 15 minutes in the afternoon.

Violations of this policy may warrant disciplinary action by their immediate supervisor.

**H. Gambling Policy.**

RST employees shall not participate in gambling activities, whether in person or on-line, during working hours, including lunch hour and breaks. "Reasonable" personal time for entertainment' (including gambling) is allowed while an employee is on RST approved travel, but the employee is responsible for maintaining an appropriate image for the Tribe. Violation of this policy will result in immediate termination.

**I. Anti-Violence in the Workplace Policy.**

In order to ensure a safe environment for all employees, RST prohibits the wearing, transporting, storage, or presence of firearms or other dangerous WEASons on RST property. Any employee in possession of a firearm or other dangerous WEASon within tribal facilities/property or while otherwise fulfilling job responsibilities may face disciplinary action up to and including termination. Possession of a valid concealed WEASons permit authorized by a state is not an exemption to this policy. To the extent allowed by law and appropriate authorization relative to job duties, RST prohibits visitors from carrying WEASons in tribal facilities or on tribal property. Any violation of this policy may result in disciplinary action, up to and including termination.

The RST will not tolerate bullying of any kind from one employee to another while on the job or after hours which could come back to the workplace. Bullying is Harassment! (See Tribal President's Directive on Workplace Harassment)

**No kind of violence (verbally and/or physical) will be tolerated. Disciplinary Action will be taken against both parties up to and including termination.**

**J. Acceptable Use of RST Equipment and Property** Employees will not directly or indirectly use or allow the use of property, equipment, or supplies belonging to the RST for any purpose other than RST business, unless special and written permission for personal use is obtained from the employee's immediate supervisor. Further, no employee shall willfully alter, damage, abuse, or waste any property, equipment or supplies belonging to the RST. Any violation of this policy may result in disciplinary

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action, up to and including termination. Specific equipment usage guidelines are set out below and others may be found in the Property and Management Manual.

1. **Telephones.** RST telephones (including issued cell phones) are for business purposes only and personal calls are expected to be kept to a reasonable minimum and preferably during break periods or before/after work. Personal long-distance calls are not allowed on RST phone lines without supervisory approval and then will be charged to the employee. RST's fax machines are, likewise, for business purposes only and personal use is prohibited. Personal cell phones may not be used during work hours other than when the employee is on an approved break.

2. **Internet.** Use of the Internet is strictly intended for business purposes and must not be used for personal reasons or entertainment. Further, RST will not tolerate individual abuse through the accessing of chat rooms, pornographic, gambling or other inappropriate sites.

Employees should be aware that Internet use is not private and may be monitored or retrieved by RST and employees waive any right to privacy in connection therewith.

3. **Email/Mail.** All material received by the RST or generated during work hours by an employee is considered RST business and may be opened and inspected at any time. This includes regular mail or any kind of electronic transmission. An employee who sends or receives a personal message of any kind should be aware that it will not be considered a personal, confidential message of the employee.

4. **Audio or Video Taping; Photos (camera and/or Cell Phone).** Audio tape machines or video recorders may not be used by either management or employees without the consent of all individuals being taped or recorded as well as any photos being taken.

5. **See Social Media Policy – (NEW) Social Media Access.** All employees are denied access to social media such as Facebook, Twitter and Blogging or other activity associated with social media via RST Internet while on duty. Any employee who is caught using social media other than for official business (understanding that some RST Departments utilize social media for advertising their services) via their RST Cell Phone and on their personal cell phone during working hours may be disciplined by their immediate supervisor.

**6.Solicitation and Distribution.**

Soliciting or collecting money from one employee by another is prohibited while either employee is on work time. Distributing literature and circulating petitions at the RST is also prohibited during work hours.

**K. Drug and Alcohol-Free Workplace Policy.**

**1. Policy.**

The RST is a drug and alcohol-free workplace and prohibits impairment during working hours. Employees are expected to report to work in a state of mind and physical condition that will allow them to perform their assigned duties in a safe and competent manner. If an employee comes to work under the influence of drugs or alcohol or possesses, uses, manufactures or sells drugs or alcohol during work time (including breaks and within personal vehicles parked on RST property), the employee will be subject to disciplinary action including termination pursuant to the RST's discipline and dismissal procedures. The RST may discipline employees based on information obtained through testing or based on credible information from any source. This policy applies to all RST employees (including political appointees).

**2. Employee Training and Acknowledgment of Policy.**

Training on this policy is done during orientation by each Department Director or as arranged by the Rosebud Sioux Tribe or, if contracted out, by the contract entity. All RST employees are required to sign an acknowledgment that they fully understand they are employed in a Drug- and Alcohol-Free Workplace. This form will be retained in the individual's personnel file.

**3. Employee Responsibilities.**

(a)Each Employee's Responsibility. The RST encourages employees who may have a problem with alcohol or other substance abuse to seek voluntary rehabilitation. This step is available to employees through the Employee Assistance Program (EAS) as well as other referral sources. While at work (including breaks), employees shall not be in an impaired condition.

(b)Prescription Drug Use. Employees who are using prescription drugs have the responsibility to self-report this usage to their immediate supervisor if such usage might result in impairment of any sort.

(c)Refusal to be screened for drugs. It is a violation of this policy for an employee to refuse a substance screening ordered by a supervisor. Refusal to be screened for drugs also includes, but is not limited to, failure to provide a sample and failure to appear for screening. The RST will treat any Refusal to Screen as insubordination and as a positive test, which may result in disciplinary action up to and including termination.



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(d) Tampering. It is a violation of this policy for an employee to tamper with or attempt to tamper with any screening specimen. Any tampering may result in disciplinary action, up to and including termination.

(e) On-Call and Off Duty Employees. Employees paid to be “on call” may not consume alcohol or use illegal substances during “on call” hours. Whether off duty or “on call”, it is the employee’s responsibility if called back to work to advise the supervisor if the employee reasonably believes he/she would violate RST’s Drug and Alcohol-Free Workplace Policy by reporting for work. It is a violation of this policy to return to work in an impaired condition or to fail to advise the supervisor of the employee’s impaired condition.

(f) Reporting of Criminal Drug and Alcohol Conviction/Charges Required. Any employee charged with or convicted of a crime involving drugs or alcohol shall report the charge or conviction to his or her immediate supervisor, in writing, within five (5) days of the conviction or receipt of a copy of a charge. Failure to report a conviction, receipt of a charge, or the disposition of a charge is a violation of this policy. The supervisor will evaluate each drug or alcohol conviction for job-relatedness and impact to the employee’s essential job functions and determine appropriate discipline.

(g) Responsibility of Co-Workers. When an employee observes or has reasonable grounds to believe that another employee is impaired during working hours or engaging in activities during working hours involving an intoxicant prohibited by this policy, the Resources Director.

**4. Supervisor’s Responsibilities.**

It is the responsibility of all Directors to understand and comply with the RST Drug and Alcohol-Free Workplace Policy in its entirety. Supervisors are responsible for knowing which job classifications the RST designates as ‘safety sensitive positions’ for their work area and to ensure that employees are referred for appropriate substance screening. All Directors must complete required training on an annual basis, as arranged and/or scheduled by the Human Resources Director.

**5. Substance Screening Process.**

The RST reserves the right to conduct regular testing. Upon notification that a drug test is to be administered, the employee must immediately leave the job site and comply with the test. An employee has the right to refuse testing but such refusal will result in immediate disciplinary action up to and including termination. Any or all of the following testing options apply:

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(a) Pre-employment Testing. All prospective employees must submit to the drug testing policy but will only be asked to submit to a test once a conditional offer of employment has been extended and accepted. Any final offer of employment by RST is conditioned on the prospective employee testing negative for illegal substances. No prospective employee may begin work until test results are received by the Human Resources Director. If the tests are positive, the applicant will be refused employment and may not reApply for an RST position for at least sixty (60) days.

(b) Post-Accident Testing. All RST employees involved in any workplace traffic accident (either on or off the Reservation) involving an RST-owned vehicle must be tested for drugs and alcohol. Post-accident testing will be conducted as soon as possible after such accident and the driver must remain available for testing or they may be considered as 'refusal to test'. If an employee has been criminally charged with driving under the influence of drugs or alcohol, whether on or off work, and the employee's position requires driving a tribal vehicle or operating heavy equipment, the employee's driving privileges shall be revoked until such a time as any charges are either withdrawn, dismissed or the employee is found not guilty. The inability of the employee to regain a valid driver's license may result in termination of employment.

(c) Random-Testing. Employees are subject to random drug and/or alcohol testing twice a month by Human Resources. Human Resources through a Random Selection automated process select 20 employees each time twice a month. If an employee was tested on the first selection in that month and gets selected again within the same month will not have to be tested again. But if that same employee is selected in the next month randomly, they will be tested. They will not be tested twice in one month unless there are unusual circumstances. Employees whose positions require them to perform safety sensitive duties and/or require a commercial driver's license may be subject to random drug testing at a higher incidence than other employees.

(d) Reasonable Suspicion Testing/Searches. Directors may require employee testing if they have reason to believe an employee is under the influence during working hours. 'Reasonable Suspicion of Impairment' includes but is not limited to: bloodshot eyes, lack of coordination, odor of an alcoholic beverage, erratic behavior, unexplained significant deterioration in job performance, unexplained or excessive absenteeism and reasonably reliable reports by other employees. Supervisors are required to document all observations and information that create "Reasonable Suspicion" that the employee is impaired. The RST also reserves the right to search an employee's person, work area or personal property upon reasonable suspicion' that the employee is in violation of the policy. No Director

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may report an RST employee on the basis of ‘reasonable suspicion’ unless such Director has attended required training.

(e)Return to Duty and Follow-up Testing. When an employee has violated the RST Drug- and Alcohol-Free Workplace Policy, testing will be conducted prior to allowing return to work. If an employee is allowed re-entry into their position, a minimum of six (6) follow-up tests will be conducted over the first 12-months of reinstatement and frequent follow-up testing may continue for a period of at least two (2) years. Tests are unannounced and a confirmed positive, including ‘refusal test’, will subject the employee to disciplinary action up to and including termination.

**6. Testing Procedures/Standards.**

Any test for drug or alcohol abuse will be conducted using reasonable procedural safeguards along with confidential reporting to the employee’s immediate supervisor and the Human Resources Director. Testing results will be made available to the employee or applicant.

**7. Consequences of Policy Infractions.**

Any employee whose alcohol or drug test is positive or who refuses to have the test administered is considered in violation of the RST Drug- and Alcohol-Free Workplace Policy. Any or all of the following steps may be taken by the RST.

(a) Positive Tests by Employees who are NOT “Regular Full-Time and/or Part-Time RST Employees”. Is immediate termination.

(b) Initial Positive Test for Regular Full-Time and/or Part-Time RST Employees.

1. Upon receipt of positive test results, there shall be an immediate fifteen (15) (working) day suspension without pay and without eligibility for use of accrued sick or annual leave for this period.

2. Employee is required to schedule a mandatory assessment/counseling within fifteen (15) days after onset of the suspension or the suspension will be revoked, and a termination will be affected. Any cost of participation in an RST designated assessment/counseling program shall be borne by the employee. Depending on the outcome of the assessment, the agency (including the RST Employee’s Assistance Program (EAS)) shall, with the consent of the employee, communicate ‘recommendations’ to the employee’s immediate supervisor and the Human Resources Director. If the employee declines

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to sign a 'release of information' agreement authorizing release of the assessment to the immediate supervisor, the employee shall be terminated.

3. If medically advised during an extended treatment period, up to an additional thirty (30) days of leave may be allowed, at the discretion of the employee's immediate supervisor. Accrued sick and/or annual leave may be used by the employee for this extended treatment period. If positive test results are obtained during this period, the employee's immediate supervisor will be notified by the treatment facility and the employee will be immediately terminated. The 'release of information' agreement shall cover the release of positive test results during this extended treatment period as well as the mandatory assessment results per (2) above.

**(a.) Second Positive Test for Regular Full-Time and/or Part-Time RST Employees.**

If a second positive test occurs within a two (2) year period of the first positive test, the employee will be immediately terminated. Employee that has had two positive test results within a two year period of time and is automatically terminated they will not be allowed back to work for the RST at least 6 months and when they do come back they will be required to take a Drug Test every month for the remainder of that year.

**8. Managerial Training.**

The Human Resources Director is responsible for ensuring that all employees are trained in this drug and alcohol policy. Directors must participate at least annually in required training to ensure compliance with all RST drug and alcohol policies. Failure to comply with this management requirement will result in disciplinary action up to and including termination.

**9. Challenging Drug Test.**

Should the employee reasonably question the validity of any testing procedure, he/she must advise the tester to save the specimen for re-testing and submit such request in writing and within three (3) days of receipt of the results of the disputed test to the Human Resources Director. The Human Resources Director may confer with the employee's immediate supervisor whether to approve a re-test.

If approved, the testing will be performed at the employee's expense and the employee must pre-pay for the test before the test will be scheduled. Re-testing will not be approved routinely but only when circumstances and facts seem to warrant such a measure and only if the same sample can

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be used. Disciplinary consequences of the initial positive test will not be modified unless and until the initial result is shown to be incorrect.

**IV. PAY AND WORK PRACTICES.**

**A. Check Distribution and Pay Periods.**

All employees are paid on a bi-weekly basis (26 pay periods) unless contract specifications require a different pay schedule. A pay period is eighty (80) working hours. All wages/salaries are established by Tribal Council (or the appropriate committee) and are subject to the appropriate contract budget.

**1. Pay Period.** A pay period is eighty (80) working hours unless specified differently by Personnel Action (PA) and/or Contract.

**2. Payroll Deductions.** Each employee receives a statement which itemizes the gross pay, allowable federal and state tax withholding(s), and any individually authorized deductions such as loan payments, rent, etc. No more than 50% of the employee's net pay may be earmarked for deductions. If an employee resigns or is terminated, all applicable deductions will be taken out of their final paycheck or annual leave payment.

**3. Paycheck Errors.** Any employee who believes there is an error on their paycheck must report it to the Payroll Manager prior to the receipt of their next paycheck.

**B. Overtime/Compensatory Time.**

Full-time and part-time employees earn overtime in accordance with the RST Personnel Policy Procedures Manual as overtime compensation is modified to meet tribal and departmental budgetary limitations. Full-time and Part-time employees working more than their regular work week will be credited time and one-half for hours worked more than forty (40) hours in any work week.

To meet tribal and departmental budgetary limitations overtime compensation is modified that full-time and part-time employees who work any hours over their regular 40 per week will receive time and half or if they are scheduled to work a holiday will also receive time and a half.

This compensation may be as additional salary (providing program funds are available) or, alternatively, awarded as compensatory time (when budgeted overtime is not available). Each work week (generally, Thursday through Wednesday but may vary as approved for departments who have established their own pay practices) stands alone and time may not be averaged over any different time. Time away from work on paid leave (annual leave, sick leave, holidays, or other paid leave) will not be counted as hours worked in the calculation of

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overtime/compensatory time for that work week. Overtime must be authorized in advance by the employee's immediate supervisor and so noted on the timesheet. The RST wishes to minimize the amount of overtime worked by its employees and all overtime/compensatory time must be approved in advance by the immediate Supervisor if this is not followed overtime/compensatory time will be disallowed.

**1. Compensatory Time (Non-Exempt Employees).** If overtime work is required of a non-exempt employee (including work on an officially designated leave day) and no funds are available under the program budget, compensatory time may be awarded for non-exempt staff at the same time and one-half equivalent. Compensatory time shall be used as soon as possible, but no later than the end of second pay period following the pay period in which it was earned. Such compensatory time off must be at a mutually acceptable time for employee and supervisor. In no instance can compensatory time exceed an accrued ceiling of twenty (20) hours within one week or forty (40) within one pay period and if the compensatory time off cannot be taken within the established time frame, it will be forfeited.

**2. Directors.** Directors are ineligible for overtime/compensatory time for any hours more than forty (40) hours/week required by their position responsibilities

**3. Travel/Training Time.** If non-exempt employees are required to spend time in travel status and in attending training sessions as part of their job requirements, they may claim only their regularly scheduled hours while on such approved travel/training. If an employee is drawing per diem for approved travel, they are not eligible for any overtime/compensatory time with the exception that, if approved travel time falls on a weekend, the employee may claim their first day of travel as overtime/compensatory time. If an employee on approved travel/training and drawing per diem who does not attend training sessions/meetings, they will be required to repay all advanced funds given to them for that travel. (Attendance Sheets will be required to prove attendance or a stamp of attendance)

**4. Overtime/Compensatory Time Upon Termination of Employment.** Upon termination of employment, accrued overtime will only be reimbursed if paid overtime is allowed, in general, by the applicable program. Accrued, but unused, compensatory time will not be reimbursed.

**5. Rotating Shift and 24/7 Departments.** Rotating shift and 24/7 Departments may adopt special schedules that specifically define when overtime/compensatory pay starts within a period. Such schedules must be approved by the Human Resources Director who shall recommend approval/disapproval to the Tribal President.

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C. **Timesheets.** Timesheets for Directors must be approved by the Tribal President or his/her designee. Timesheets for all other employees must be signed by the employee's immediate supervisor and any deviations from normally scheduled work times must be initialed. Timesheets must be submitted according to the Workforce Go Payroll System. Human Resources has access to all RST employees' timesheets and can be verified by Human Resources and all Directors have access to their employees leave and timesheet information.

D. **Workday/Week.**

1. **Regular Schedule.** A normal workday fall between the hours of 8:00 am and 5:00 pm. Employees are expected to work a full eight (8) hours/day. The RST work week is calculated from Thursday through Wednesday. Rotating shift and 24/7 Departments may deviate from the normal workday/week policy by adopting a special work schedule approved by the Human Resources Director who shall recommend approval/disapproval to the Tribal Council.

2. **FlexTime.** In special instances (e.g. extraordinary family care requirements, required evening meetings) Employees must obtain approval for flextime before taking the time and is required to have prior approval. For employees including Directors, pre-approval must be obtained from their immediate supervisor and Human Resources Director with the concurrence and/or approval of the Tribal President. For Directors pre-approval must be obtained from the Tribal President and reported to the Human Resources Director.

Should Flextime become continuous meaning year to year, for each new year from the time it began will need to be resubmitted for review and approval by the immediate supervisor, HR Director and Tribal President.

E. **Lunch and Breaks.**

Employees receive one unpaid hour off for lunch, usually from 12:00 pm to 1:00 pm. Employees should check with their supervisor to deviate from this time and supervisors retain the right to request a different schedule to provide adequate coverage for their Department. Employees may take two fifteen-minute paid breaks each day - one in the morning and one in the afternoon. These breaks can also be used as smoke breaks for those employees that smoke. Rotating shift and 24/7 Departments may deviate from the normal lunch/break schedule, as required by the duties of the Department.

F. **Attendance/Punctuality.**

If an employee is going to be absent or late, the supervisor must be notified within one hour of the scheduled arrival time. **No one may call in for the employee unless it is an extreme emergency.** Employees who are tardy more than the 'grace period' will be docked annual leave in quarter hour increments. (For example: an employee will forfeit a quarter hour annual leave for late arrival of

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six (6) minutes; a late arrival of sixteen (16) minutes will require a forfeiture of one-half hour of annual leave; and so forth.) Employees may not clock out earlier than 5:00 pm unless authorized to do so by their supervisor. Late slips shall be completed for any occurrence relative to tardiness and/or early departure. Employees who are repeatedly late for work or who otherwise work less than the required amount of time are subject to disciplinary action up to and including termination. Employees failing to call in will be placed on “Absent w/o Approval” status. Any employees who abuses the noon hour lunch break twice in a pay period will be required to clock in and out for their lunch break. Tardiness coming back from lunch will be treated like being late in the morning. (Note – this is not being enforced departmentally)

**1. Time Clock Requirements.** All employees are required to clock in both their arrival and departure times. Time clocks are not punched for lunch or break periods, but no employee shall work through their lunch period and add this time to hours worked without prior written approval from their immediate supervisor for each occurrence. No employee or employee group is exempt from time clock requirements (i.e. Directors) shift status employees and community station base field workers who are not near a time clock) must be approved in writing by the HR Director with such exemption filed in both the Finance Office and the Human Resources Department. If an employee has been granted approved ‘flex-time’ appropriate notations are to be made on the timecard. At no such time can supervisor and/or subordinates edit a time sheet without approval from their immediate supervisor. You are not allowed to utilize the Director’s access to WFG to edit time sheets if found to have done so without permission will be subjected to disciplinary action.

**2. Absent w/o Approval.** The RST believes it offers a variety of generous leave options that are workable for its employees. Therefore, excessive, and unplanned leave - whether accrued or on leave w/o pay status - may render the employee subject to disciplinary action up to and including termination. Unless there are exceptional extenuating circumstances, an employee’s failure to inform their immediate supervisor of their reason for absence may be construed as job abandonment.

**3. Other pay practices** are set forth according to the accounting schedule established by the Finance Office.



## V. EMPLOYEE BENEFITS.

**A.Holidays. The following holidays are designated by the RST Tribal Council as paid leave for all employees in tribal service:**

New Year's Day (January 1<sup>st</sup>)

Martin Luther King Day (Monday following January 15<sup>th</sup>)

President's Day (as designated by RST President) (February)

Honoring Spirit Camp Day March 29

Memorial Day (as designated by RST President) (May)

Tribal Elder Day (4<sup>th</sup> Saturday in May)

Indian Day (June 25<sup>th</sup>)

Independence Day (July 4<sup>th</sup>)

Rosebud Fair (1<sup>st</sup> day of Fair, as designated)

Labor Day (1<sup>st</sup> Monday in September)

Native American Day (as designated by RST President)

Veteran's Day (November 11<sup>th</sup>)

Thanksgiving Day (4<sup>th</sup> Thursday and Friday in November)

Christmas Day (December 25<sup>th</sup>)

Any other day as designated by the RST President

Those holidays falling on Saturday will be observed on the Friday preceding. Those falling on Sunday will be observed the following Monday.

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1. **Employee Required To Work on Holiday.** Any employee with the exception of Directors who are required to work on a designated holiday will receive time and half for that holiday work in accordance with the Department budgets, if the funding is not available for overtime then comp-time will be authorized in lieu of overtime.

2. **Eligibility for Holiday Pay When on Leave Status.** To receive pay for a recognized holiday, an employee must be on approved “paid leave” (sick/annual) status on any workday immediately preceding or following the holiday. You cannot build up Holiday days to use later you have to follow the Comp Time Policy. NO WAIVERS!

3. **Part-time and Temporary Employees Pro-Rata Pay.** Regular part-time employees are paid for holidays in proportion to the number of hours normally worked each day. Temporary full-time or part-time employees will be paid for any holiday that falls within their hire period in proportion to hours normally worked.

B. **Annual Leave.** Regular full-time and part-time employees are granted annual leave in accordance with the guidelines established below:

**Accrual Chart**

<b>1. Full-Time</b>	<b>Part-Time</b>
<i>Year 1 through Year 3</i>	
<i>4 hours/pay period</i>	<i>2 hours/pay period</i>
<i>Year 4 through Year 10</i>	
<i>6 hours/pay period</i>	<i>3 hours/pay period</i>
<i>Year 10+</i>	
<i>8 hours/pay period</i>	<i>4 hours/pay period</i>

2. **Calculation of Years of Service.** It is the responsibility of the employee to timely notify their immediate supervisor if they believe themselves to be eligible for a change in annual leave accrual status. Personnel will begin from what they have documented and there will be no retro-active time allowed. The employee’s immediate supervisor, in consultation with the Human Resources Department, will calculate “years of service” based on each full year of employment and will notify Payroll of the change in accrual. “Years of service” are calculated by cumulating years of employment in a program. These reporting procedures may

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be changed by the Human Resources Director as changes in circumstances warrant, such as the development of improved payroll software. Being an elected official and working for any other chartered entity such as the RST Casino will not count toward years of service for the Rosebud Sioux Tribe. You cannot count continued service if you are moving into a position within the same department if you had to resign and apply for a new position within the same department but, if you transfer into a position that was vacant and not advertised it will not be considered a break in service.

**3. Policies Related to Accrual and Use of Annual Leave**

- a. **Regular part-time employees** who work at least twenty (20) hours/week are entitled to accrue annual leave on a pro-rata basis (see Accrual Chart above). Part-time employees working twenty (20) or less hours/week and temporary employees do not earn paid annual leave.
- b. **Non-accrual Periods.** Annual leave is not earned while an employee is on any leave w/o pay or absent w/o leave status.
- c. **Any new or terminating employee** who begins or ends their employment during any fractional part of the pay period will have leave pro-rated accordingly. New employees will have leave accrued as of date-of-hire but cannot use any accrued leave in the first ninety (90) days of employment.
- d. **Annual Leave Ceiling.** The maximum of one hundred and sixty (160) hours of annual leave can be carried from one fiscal year to the next year. Any annual leave above the limit of 160 hours of carry over at end of the fiscal year will be allowed to be paid out based on the following:
  1. Your Department Budget has allowed for Annual Leave Payouts and a Line Item is in your budgets. If your department does not have the funding in their budgets to payout the annual leave, then you will be in the Use or Lose Category. The Rosebud Sioux Tribe will not fund any annual leave payouts if the department did not budget for it.
  2. Your Department Director has approved your Annual Leave Payout.
  3. During the COVID19 Pandemic or other significant disaster if an employee was on COVID (Admin) Leave and accrued annual leave you CANNOT use that accrued leave towards a payout or as earned leave, if any employee has rightfully earned annual leave while clocked in and working and has

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exceeded the 160-carryover limit can be paid out their annual leave hours.

- e. **Pay-Out on Separation from Employment.** Upon separation from employment, the employee will be paid for any accrued, but unused, annual leave at their current rate. An employee who terminates employment during any fractional part of the pay period will have leave pro-rated accordingly. Payout is subject to any debts owed to the Tribe, payroll deductions approved and signed by the employee, and availability of funds based on contractual/grant budget limitations. Upon the death of an employee, all compensation and benefits due will be calculated and paid to the personal representative of the deceased employee's estate, as designated in writing by the employee. It is the employee's responsibility to complete a personal representative designation' form and keep it current. Upon separation from employment and in the case of employee's grievance, any accrued leave shall not be paid to the employee until a grievance decision is made which triggers payment of such leave. (see Ordinance 2009-01)
- f. **Advance of Leave.** Under no circumstances, will annual leave be advanced to the employee. If an employee is absent from work more than their accrued annual leave within any pay period, an adjustment will be made to their paycheck. No employee will be allowed to apply "future" accrued leave to this deficit.
- g. **Substitution for Sick Leave.** Employee will not be allowed to substitute sick leave for annual leave at any time. If annual leave is exhausted, then sick leave may be approved with certifications or if no certifications can be provided then it will be leave with-out pay.

C. **Sick Leave.** All regular full-time employees earn four (4) hours of sick leave per pay period. Regular part-time employees, who work twenty (30) hours/week or more earn sick leave on a pro-rata basis. When periods of illness exceed twenty-four (24) hours or three (3) days within a pay period, further use of sick leave requires a certification of illness from a physician or medicine man. Sick leave claims not properly substantiated will be disallowed.

1. **Notification Requirements.** All employees must call in to their immediate Supervisor at 8:00AM the first day of illness, if employee is incapacitated and cannot call in for themselves, they then can designate someone (see VI. Validation) to call in for them and state the reason.

2. **Validation.** Sick leave is subject to approval by the employee's immediate supervisor and may be used when an employee is incapacitated by sickness or injury, for medical, dental, optical diagnoses, counseling or treatment or when an employee's attendance jeopardizes the health of others. Sick leave may also be used to care for the below listed members of the employee's family:

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Father or Mother (including step)

Husband or Wife or Common-Law Relationship

Son or Daughter (including step or adopted)

Grandparents, Grandchildren

3. **No Pay-Out for Accrued Sick Leave.** There is no ceiling imposed on sick leave. However, upon separation from employment, there is no pay-out for any accrued or unused sick leave.

4. **Non-accrual Periods.** Sick leave is not earned while an employee is on any leave w/o pay or absent w/o leave status.

5. **Pro-rated Sick Leave.** Any new employee who begins or ends their employment during any fractional part of the pay period will have sick leave pro-rated accordingly. However, new employees cannot use any accrued sick leave in the first ninety (90) days of employment without a physician's statement that such leave is necessary.

**D. Bereavement Leave.**

Regular full-time employees who have a death of a family member (listed below) will be awarded up to One (1) week.

*Father or Mother (including step)*

*Husband or Wife or Common-Law Relationships*

*Brother or Sister (including step or half)*

*Son or Daughter (including step or adopted)*

*Grandparents, Grandchildren*

*Hunka Relationships*

Bereavement leave for other 1<sup>st</sup> degree family members (listed below) may be granted by the employee's immediate Supervisor, with the concurrence of the Human Resources Director:

*Uncle, Aunt, Nephew, Niece*

*Father-in-law, Mother-in-law*

*Brother-in-law, Sister-in-law*

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*Cousin*

Employees wishing to take bereavement leave for any death other than for family members listed above will be required to use annual leave.

Up to eight (8) hours of bereavement leave, or a longer period of time as authorized by the employee's immediate supervisor, with the concurrence of the Human Resources Director, will be granted for employees serving as an active pallbearer, cook, color guard, or clergy in any single occurrence. Appropriate documentation may be required by the supervisor or Human Resources Director as appropriate.

**E. Cultural and Religious Observance Leave.**

The RST shall make reasonable accommodations for a regular full-time employee to attend religious observances. RST employee shall only use this leave if they are a sun dancer or as supporter.

An RST Employee shall not take both leave within the same year. If an employee needs more time off, employee must use appropriate leave. (No Waivers)

An employee may be granted up to four (4) working days of paid leave/year if he/she is a participant of a Sundance or vision quest or any religious observance. Additional leave may be granted by the employee's immediate supervisor but must be taken as annual leave.

An employee who serves as a 'supporter' of a sun dance, vision quest or other religious observance may be granted up to three (3) working days of paid leave/year if the employee has been officially assigned to provide support as: cook, grounds keeper, cedar keeper, fire keeper or security. Verification of assignment must be in writing from the Spiritual Leader

Employees who are members of the Sicangu Lakota Warriors or any other Veterans Organizations may be granted appropriate administrative leave for participation in funerals, pow-wows, graduations, memorials and all other such events on and off the RST reservation. Such leave is granted at the discretion of the Tribal President or his/her designee pursuant to a written request of the employee seeking such leave.

Up to four (4) working days of paid leave will be granted for religious observance leave (per year) for all religious denominations but not limited to such. This leave may be authorized for other regular employees at the discretion of their immediate supervisor.

**F. Jury Duty.**

Regular Full-time employees who are required to fulfill court-ordered (Tribal, Federal, State, district, municipal or other local court) jury duty are eligible for full pay during the Notification must be given to the employee's immediate supervisor in accordance with the following:

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1. The employee must submit to his/her immediate supervisor the formal notice of required appearance and a copy of this document must be attached to the employee's time sheet(s) for this period of absence.
2. Regular Part-time employees are eligible for up to two (2) weeks paid jury or witness duty in proportion to the number of hours normally worked each day. Temporary full-time or part-time employees may take time off for required jury or witness duty but will not be paid for this time away from work.
3. Employees involved in any other court related matter other than court-ordered jury will be required to take annual leave to meet that obligation.
4. Any employee receiving mileage for attending jury selection or jury duty will be able to keep the mileage reimbursement or will not be able to keep the mileage reimbursement due to the employee being on paid leave.

**G. Election Day Leave.**

Any regular full-time employee who is registered to vote on any official election day (tribal, county, state, federal, school board) will be given up to two hours off work (with pay) in which to vote. The determination of which two hours to be taken will be made by the supervisor to assure adequate staffing of the offices.

**H. Military Leave of Absence.**

A military leave of absence will be granted to employees who are absent from work because of required service in the United States uniformed services or the Public Health Service. Such leave is henceforth referred to as "military furlough", where the employee is excused from their tribal functions for such periods as they remain on active duty. A two (2) week advance notice of service is required, unless necessity prevents such notice or it is otherwise impossible or unreasonable. Substantiating documentation of such service must be made in writing to the employee's immediate supervisor who will, in turn, notify the Human Resources Director. Any ensuring absence (failure to report to work) due to military order or induction without such written and documented request or a showing as to why there are extenuating circumstances beyond the control of the employee, will be determined to be a resignation by the employee and will result in termination of employment.

Employees on properly authorized military furlough are entitled to restoration of employment within ninety (90) days of release from service or discharge from hospitalization related to such service. Appropriate written documentation of release must be provided upon application for reinstatement for employment to the Human Resources Director. Though the

RST will be as accommodating as possible to an employee returning from a "military furlough", the employee is not automatically entitled to their previous position or same pay range. Any accrued annual leave will be paid to the employee on 'military furlough'

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at the effective time of their last day of tribal service. Any accrued sick leave will be frozen at the time of their induction but will be restored at accrued levels if the individual is re-employed with the Tribe within ninety days of release from service.

**I. Educational Leave.**

After ninety (90) calendar days of employment, regular full-time employees may be granted education leave to attend classes only at Sinte Gleska University (SGU) and Ogalala (OLC) for courses related to tribal employment, under the following conditions:

A. Educational leave requests must be submitted in writing to the employee's immediate supervisor and approved by the supervisor with a copy forwarded to the RST Human Resources Director. Authorization for such educational leave rests solely with the immediate supervisor and is contingent upon whether or not the employee can be spared without detriment to work requirements.

B. Authorized education leave will be limited to 208 hours per college school year but not to exceed eight (8) hours per week. Within this limit, the employee will be paid his/her normal salary, including annual and sick leave accruals (depending on grant/contract guidelines governing the employee's position).

C. Verification of class attendance is required to be attached to time and attendance reports.

D. A certification of course completion is required. A record of completion will be retained by the Human Resources Department and may be considered in determining authorization of any future employee requests for educational leave

**J. Administrative Leave.**

Paid administrative leave shall be granted at the discretion of the Tribal President subject to approval whether the employee(s) can be spared without detriment to Administrative Leave day, overtime/compensatory time will not be paid for such additional work. Paid Administrative Leave may be granted for the following reasons ONLY! NTE 32 hours per fiscal year.

1. Inclement weather conditions as declared by the Tribal President (in writing). At the discretion of the employee's immediate supervisor, forbearance might extend to unavoidable absences, early release from work, or weather-related tardiness but such forbearance must be extended to all similarly affected employees without prejudice by the employee's immediate supervisor.
2. Hardships imposed by building conditions as declared by the Tribal President, in writing.



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3. Parent/teacher classroom-related conferences and/or school activities that take place during an employee's normal work hours. Time off is limited to two (2) hours per school quarter per child and for in-school activities only.

**K. Family Leave of Absence.**

Leave w/o Pay for Other than Family or Medical Purposes. If an employee requests leave w/o pay for any other employment purpose (consultant work, etc.) they must follow procedures set forth in I., above. However, for this purpose, such leave request must also be approved by the Tribal President.

The RST has elected to provide Tribal Family Medical Leave with employees and employee responsibilities like those described in the federal Family Medical Leave Act (FMLA). The Tribe's utilization of Federal FMLA standards does not constitute submission to non-tribal jurisdiction.

Family Medical leave may be granted for the birth of a child, obtainment of a child through adoption or foster care to care for an immediate family member with a serious health condition, or because the Employee is unable to perform his or her job because of a serious health condition.

It is the policy of RST to grant up to twelve weeks of Family Medical leave during a fixed twelve (12) month period to eligible employees. The family medical is usually taken after the employee uses up his or her accrued paid leave, however, the employee may opt to ask for family medical leave before or concurrent with paid leave.

In order to qualify for Family/Medical leave the employee must have worked for the Tribe for Twelve (12) months and worked at least 1250 hours in the previous twelve (12) month period. The twelve (12) month Family/Medical leave entitlement period shall be based on a fixed twelve (12) month period measured from the first day leave taken.

Employees on Family/Medical leave will have their insurance continued in the same manner as if they were not on leave. Employees who are required to contribute to part of the cost of health insurance must plan with the HR Benefits Office for timely payments of premiums. Annual and Sick Leave will not accrue while an employee is on unpaid Family/Medical leave.

Upon return from approved leave employee will be placed back into their original position. If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, the Tribe will require the employee to

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reimburse the amount paid for the employee's health insurance premiums during the leave period.

Employees eligible for FML have an initial choice on whether to first take appropriate Annual and Sick leave before unpaid FML is applied or to implement FML leave concurrently, or to use unpaid FML: prior to using Annual or Sick leave.

Spouses both working for a Tribal entity and other situations not specifically addressed above should refer to federal FMLA Standards as the Tribal FML standards are intended to be comparable to federal standards.

Procedures for requesting FML:

- Request FML from your direct supervisor as soon as you know you will need time off.
- Supervisor/Employee will request paperwork from Human Resources Department.
- Human Resources will mail or forward appropriate paperwork to employee or designees
- Employee will complete all paperwork and have the doctor complete medical certification paperwork.
- All paperwork will be returned to Human Resources prior to any time off except in case of an emergency. Paperwork must be completed on RST Forms; no prescription letters will be accepted.
- Human Resources Director will review paperwork and make decision on whether the employee is qualified for FML. The Human Resources Director will send a letter to the employee and supervisor outlining the FML acceptance, dates, and employee's responsibilities and/or re-certification requirements.
- Additional time off request must be submitted in writing through their immediate Supervisor and Human Resources Director.

**L. Maternity Leave.**

Maternity leave shall be treated as any other short-term disability and applicable leave restrictions apply as:

If the employee is a regular Full-Time Employee and is over their 90 day probation and has worked during the full time of the pregnancy (exceptions may apply – such as; in the Third Trimester the mother is unable to work due to health reasons for her or for the baby) the new mother may take up to 6 weeks of Maternity Leave with pay after the baby is born and time to bond with the new born. Grant and/or Temporary employees are not eligible.

An employee who becomes pregnant may continue to work until such time as she can no longer satisfactorily perform her duties or her physical condition is such that her

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continued employment may be injurious to her health or to her baby's health or well-being. If the employee incurs medical complications (as certified by her doctor) that preclude her ability to work during the pregnancy, the employee's immediate supervisor may award up to an additional five (5) days of paid leave for pre-birth complications. The employee's position may be filled on a temporary basis during the absence.

**M. Breastfeeding Leave.** The RST supports employees in their decision to continue breast feeding during work hours as infants and to encourage working mothers to avoid premature weaning. Formula fed babies are not included in this policy.

A breast-feeding mother may bring her infant to work up to the age of four (4) months. **The infant will not be allowed in staff offices.** A satisfactory schedule for breast feeding or pumping must be worked out with the employee's immediate supervisor.

If the mother brings baby to work, arrangements for place away from work site to breast feed and if the mother does not wish to bring her baby to work, an equivalent time will be provided for the nursing mother to nurse and/or pump during work hours.

The employee who plans to breast-feed at work, must give a written notification of their intention to do so to their immediate supervisor before leaving on maternity leave. A 'Release of Liability' form (can be obtained from HR) must also be signed. The employee is responsible for their own transportation to work and infant car seat laws must be followed. The employee must also provide any equipment needed such as an infant seat or baby carrier.

This policy does not preclude the need for the employee to continue to perform their job responsibilities and immediate supervisor shall have the option to deny or terminate the breast feeding/pumping arrangement at any-time if work performance suffers or if any disruption is caused at the work site and a reasonable accommodation cannot be made.

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- N. Paternity Leave.** Paternity leave shall be granted not to exceed three working days before or after the expected birth. **This leave is for father of the child ONLY!**
- O. Adoption Leave.** Adoption leave shall be granted to both adopting parents not to exceed three working days after the child has been approved and is received into the adopting parents' home. Documentation must be supplied to the immediate supervisor who shall pass it on to the Human Resource Director confirming adoption.
- P. Leave of Absence w/o Pay for Family and/or Medical Purposes.**

A medical or family leave of absence w/o pay is intended as a response to serious personal needs. An employee may be granted such leave in accordance with the following policies:

**Eligibility.** Such leave is available only to full-time employees who have completed at least ninety (90) working days of service.

**Duration.** An eligible employee may request up to three (3) months of leave w/o pay for family and/or medical leave purposes during any 12-month period. If granted, the employee must first use any accrued annual and sick leave. Approved leave for family and/or medical leave purposes only will not result in separation of employment from tribal service. However, if an employee fails to return to work at the expiration of their approved family and/or medical leave, such absence will be deemed to be an automatic resignation.

**Procedure.** The employee must submit a request, in writing, to their immediate supervisor at least three (3) weeks prior to the expected date of the beginning of the period of absence. Requests for leave without pay status are evaluated based on several factors. These include anticipated operational requirements and staffing considerations during the proposed period of absence and frequency of such requests. The terms of the agreement and conditions of the effective date will be negotiated between the employee, the employee's immediate supervisor, and the Human Resources Director. Appropriate documentation may be requested from the employee. The award of such leave is strictly discretionary by the employee's immediate supervisor with concurrence by the Human Resources Director.

**Continuation of Benefits.** Benefit accruals (such as sick leave, annual leave, and holiday pay) will not be earned during the period of leave without pay and service time for salary increases, increased earnings of annual leave or any other service benefit will not be accredited.

- Q. Leave w/o Pay for Other than Family or Medical Purposes.** If an employee requests leave w/o pay for any other employment purpose (consultant work, etc.) they must follow procedures set forth in L above. However, for this purpose, such leave request must also be approved by the Tribal President.

- R. Employee Assistance Services.**

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An Employee Assistance Services (EAS) is a referral and counseling service available to assist staff in dealing with the range of personal problems which might have an impact upon their working lives. Employment Assistance Services are available to all regular full-time and regular part-time RST employees and their dependents. Services are also available to individuals living within the same household of a covered staff member. Employees may self-refer to the EAS Program by contacting the EAS directly. All services are at the employee's own expense.

At a supervisor's discretion, EAS counseling sessions may also be recommended to an employee who is experiencing difficulty with job performance by reminding the employee of the availability of the EAS. An employee's use of the EAS program may not exceed four (4) sessions of assessments and counseling free of charge per person, per incident unless that time frame is specifically extended by the EAS Coordinator and, in the case of a supervisory referral, also authorized by the employee's supervisor. Either approved sick or annual leave may be used for the use of EAS program. The services are confidential, but employees will be provided to the immediate supervisor, the Human Resources Director, and the Tribal President. At the request of the immediate supervisor, the Human Resources Director, or the Tribal President, the EAS Coordinator shall consult with one of more of these parties concerning the treatment recommendations but only as they relate to a request for work hour or leave considerations. Records will not be kept in the employee's personnel file except to document a condition of employment referral or recommendation for time-off. Participation in this program shall not be grounds for job termination.

An Employment Assistance Services (EAS) is a referral and counseling service available to assist staff in dealing with the range of personal problems which might have an impact upon their working lives. EAS services are available to all full-time and part-time RST employees and their dependents. Services are also available to individuals living within the same household of a covered staff member. Employees may self-refer to the EAS program by contacting the EAS directly. All services are at the employee's own expense.

At a supervisor's discretion EAS counseling sessions may also be recommended to an employee who is having trouble with job performance by reminding the employee of the availability of the EAS. An employee's use of the EAS program may not exceed six (6) sessions of assessment and counseling free of charge per person, per incident. The employee may continue services other than counseling, such as resume writing, job search, and other services that may enhance the productivity of the employee. At the request of the Tribal President or the Human Resource Director, the EAS Program may assist in the Separation of Employment for

RST Employees to ensure that all documents and work requirements have been completed. Each RST employee will be given Leave for a total of three (3) hours per session, for four (4) sessions. One (1) hour for travel, two (2) hours for one (1) session, leave as recommended by the EAS Counselor. The employee may use sick or annual leave for the remaining services as needed. Employees shall use the "Referral Form"

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that has been put in place so that the supervisor will know whereabouts of employee when taken leave to go to the Employment.

All EAS services will remain confidential unless authorized by the RST Employee, by signing the Release of Information and will be provided to the RST Tribal President, RST Human Resource Director, and the immediate supervisor. At the request of the immediate supervisor or RST Employee, the Human Resource Director or the RST Tribal President, the Employment shall consult with one or more of these parties concerning the treatment recommendations, conflict resolution(s), leave requests, or in-house transfer request(s). Records will not be kept in the employee's personnel file except to document condition of employment referral or recommendation for time-off. Participation in the Employment shall not be grounds for job termination.

**S. SICK LEAVE DONATION POLICY**

This program is designed to aid employees suffering from a chronic illness or injury by enabling them to draw upon annual leave donated by other employees when the employee is unable to work for a period greater than 2 calendar weeks.

Employees may donate sick leave directly to another specified employee or to the Sick Leave Bank suffering from illnesses/injuries pursuant to the terms and conditions set forth by this policy

The donated sick leave program is to allow Tribal employees to receive donated leave Not to Exceed 80 Hours per year. The maximum usage for Employee may not use (AL) and Family Medical Leave together.

**Donate Leave**

Employees may donate accrued sick leave to another designated employee who meets the requirement of this policy.

**Other Requirements**

Before receiving donated leave time, the requesting employee shall: (1) have been a Tribal employee full-time employee and have finished their ninety (90) day probationary period prior to the request; (2) have used all of his/her sick leave.

Direct donations may begin immediately upon approval of this policy on August 13, 2020.

**Program Management of the Sick Leave Donation**

The Human Resources Department has developed the following forms to request and to donate to the Sick Leave Bank and to the Employee.

**Solicitation for Donated Leave**

1. Employees needing Sick leave due to a chronic illness must complete the Donated Annual Leave application
2. Employees who want to donate will get forms from HR.
3. HR will make the appropriate changes in the employees' accruals within WFG.

**Excess Leave Donations**

In the event that sick leave donations outweigh the employee's needs, their balance will be prorated and returned to the donating employees leave accruals.

**T. Employee Recognition Program.**

From time to time, a Program Director may exercise and recognize regular full-time employees with various certificates and awards for completion of employment training or achievements in a tribal program. Such recognition must be conducted in a manner that is fair and equitable to all department employees. Cash awards for recognition may be permitted based on availability of resources to the program. If awarded, cash awards will not exceed two per year to the same person as set forth in this policy.

Program Director may exercise and recognize full-time employees by their performance at the end of the year when the final performance evaluation is done and any employee that has a satisfactory or better evaluation will receive a cash award at the end of the year which includes various certificates and awards for completion of employment training or achievements in a tribal program.

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Such recognition must be conducted in a manner that is fair and equitable to all department employees.

Cash awards for recognition may be permitted based on availability of resources budgeted in the program. If awarded, cash awards shall not exceed two per year to the same person.

**U. Social Security**

All employees are covered under the provisions of the Social Security Act.

**V. Workers Compensation/Unemployment Insurance.**

The RST pays premiums for Workers Compensation Insurance and Unemployment Insurance. All accidents shall be reported immediately after the event to the employee's immediate supervisor.

**W. Fringe Benefits.**

The RST offers other fringe benefits for tribal employees (i.e. 401(k), life insurance). See the Human Resources Department for information and eligibility requirements for these benefits.



**VI. DISCIPLINARY AND TERMINATION POLICIES.**

**A. Cause for Disciplinary Action** - The following violations of employee rules of conduct will be considered as major and serious violations of RST policy. This list is not all-inclusive. Other situations for disciplinary action are included throughout the Policies and Procedures Manual:

1. Inability to perform duties satisfactorily.
2. Insubordination, misconduct or gross neglect of duty or refusal to comply with lawful instructions and breach of chain of command by employees.
3. Possession, sale or use of alcohol or illegal drugs or reporting to work under the influence of alcohol or illegal drugs. Also see Drug and Alcohol-Free Workplace Policy.
4. Conviction of a felony or embezzlement while in the employment of the RST. Breach of trust while in the employment of the RST, including theft or dishonest acts, or knowledge of dishonest acts or inducement or attempting to induce any other employee in the service of the Tribe to commit an unlawful or dishonest act during work hours.
5. Using or threatening to use personal or political influence in an effort to secure special consideration as a tribal employee.
6. Excessive unscheduled absenteeism or tardiness; failure to abide by time clock procedures; failure to honor normal work-hour requirements. Failure to report to work, after an approved absence, with required documentation.
7. Harassment, intimidation, using offensive language or, generally, being discourteous to another employee, tribal official or the public.
8. Deliberate or careless conduct that endangers the safety of others, violation of any RST safety rule.
9. Altering, damaging, or destroying RST property or records, or another employee's property.
10. Violation of the RST sexual harassment policy. Willful misuse or unauthorized use of RST or GSA vehicles for other than official RST business or travel.
11. Use of such vehicles for personal transportation between employee's home and place of employment without specific authorization from the Director and Tribal President.
12. Violation of any government contract requirements that would jeopardize continued receipt of such contract by the Tribe.

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13. Solicitation of contributions on RST time or premises without authorization from the Director. Participation in political activities or use of RST's equipment or premises without authorization from the proper authority.

14. Willful misuse or unauthorized use of RST electronic equipment such as but not limited to, cell phone, internet, etc.

15. Illegal conduct off the job that has concluded or might conclude in a felony conviction or that is of such a nature as to pose safety concerns for other RST employees or clients.

All other conduct on the job not in keeping with acceptable standards of behavior generally associated with employment. Incompetency and inefficiency in their performance of job duties or not maintaining a satisfactory rating on performance appraisals. Carelessness or negligence with the monies or properties of the Tribe theft or intentional destruction of tribal property.

An employee who has mismanaged RST monies will not be allowed to come back to work for at least one year.

**B. Forms of Disciplinary Action.**

Disciplinary actions may entail verbal, written, final warnings, suspension, or termination. All these actions may not be applied in some instances. RST reserves the right to exercise discretion in discipline. A Warning is not a requirement for termination. If an employee is disciplined in writing, copies of the warning(s) are placed in their personnel file. The following steps are required prior to terminating any employee.

**C. Oral Warning.** The supervisor orally communicates to the employee the concern or observation of a performance deficiency or policy reminder. Sufficient time for improvement is then given to the employee. The employee will be required to sign a statement that they have received an initial oral warning. If the employee refuses to sign, it shall be noted by the supervisor. If more than one oral reprimand is given on the same matter, the supervisor will so note (in writing) and the note will be placed in the employee's personnel file. The employee will also be required to sign this statement acknowledging notification of the problem. If you have given more than one Oral Warning (followed up by written documentation) this is reason enough to move to the next step.

**D. Written Warning or Reprimand.** The supervisor communicates in writing to the employee the concern or observation of a serious or on-going performance or behavioral deficiency. Both the employee and the supervisor will be required to sign this written warning. If the employee refuse to sign, it shall be noted by the supervisor. A copy of the written warning or reprimand will be delivered to the Human Resources Director for inclusion in the employee's personnel file. These written warnings/reprimands will not be purged from the employee's file but

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appropriate weight will be given them for future performance evaluations and job considerations

- E. **Suspension without Pay.** Employees may be suspended without pay for a period not to exceed fifteen working (15) days. During the period of suspension, the employee may not use any accrued annual or sick leave and no additional leave will be accrued during this period. Suspension periods are different for alcohol/drug infractions (see Part IV (L)). On or before the effective date of the suspension, if possible, the employee will be given a written statement detailing the period and cause for the suspension. All reasonable efforts will be made to immediately notify the employee of the suspension in writing. All reasonable efforts must be documented. A copy of this suspension order will be delivered to the Human Resources Director for inclusion in the employee's personnel file. Upon receipt of the written statement of suspension, the employee retains the right to follow established grievance procedures if they are full-time or part-time employee that has finished their 90-day probationary period and is documented through a Personnel Action.
- F. **Termination.** Any disciplinary behavior that might warrant a second suspension within any two-year period will result in automatic termination. RST is not an At-Will Employer, Employees who are terminated shall not be re-employed by the Tribe for a period of at least sixty (60) days with the exception of mismanagement of RST monies that was proven will be allowed to apply in one year for a different job. No waivers of this disciplinary action shall be granted. A copy of the termination order will be delivered to the Human Resources Director for inclusion in the employee's personnel file. Upon receipt of the written statement of termination, the employee may appeal to the Grievance Board as described in Ordinance 2009-01.
- G. **Suspension/Termination of Directors. (Exempt Employees).** Proceedings to suspend or terminate a Director must be initiated and carried out by the Tribal President. The Tribal President shall decide whether to suspend or terminate said employee. The decision of the Tribal President to suspend or terminate may be appealed to the Grievance Board according to RST Ordinance 2009-01.
- H. **Abandonment of Position.** Absence from work for a period of three (3) consecutively scheduled workdays without proper notification and satisfactory excuse given to the employee's immediate supervisor will be deemed to be an abandonment of position and a voluntary resignation. Emergency situations may be considered.
- I. **Resignation Procedures.** When an employee decides to resign from their position, the Supervisor must complete the appropriate Personnel Action Form; will forward such notice to the Human Resources Director. This notice must be submitted within two (2) weeks of the resignation date and contain the effective date and reasons for leaving. The employee's supervisor, with the concurrence of the Human Resources Director, may agree to permit a shorter period of notice due to extenuating

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circumstances or when it is in the best interest of the Tribe. The employee's final paycheck, including pay for accrued leave, will be processed at the next scheduled pay period. An employee who resigns from one position to accept another position and then resigns from that position during the probationary period shall not be eligible for re-employment for a period of sixty (60) days. Waivers may be granted to this policy by all involved Directors and the Human Resource Director. Such waivers shall be written and filed with the Human Resources Director.

J. **Seasonal Layoff w/o Pay.** Certain positions, as set forth in the job description, require a seasonal layoff w/o pay to accommodate the program workflow. Any employee hired for such a position will be required to sign an agreement that they understand the following provisions of a seasonal layoff:

1. the employee will not be paid during a seasonal layoff
2. no severance pay is awarded for a seasonal layoff and such a layoff is not subject to challenge through the grievance procedure
3. seasonal employees do not accrue leave as they are temporary employees who are only hired for a short amount of time.
4. if, at the end of a seasonal layoff, the employee returns to the same position within the program, service credit will accrue during the period of seasonal layoff. but annual/sick leave will not accrue for this period.
5. Seasonal Layoff" of an employee a personnel action was completed and is going to be hired back into the same position.

**VII. Reduction in Force (RIF)**

**1. Procedures**

Any employee may be laid off from employment at any time as deemed necessary by reason of lack of work or funds due to program reduction, reorganization, or other administrative adjustments. The employee will be given a two (2) week written notice of a RIF by their immediate supervisor and such RIF notice will be forwarded to the HR Director.

If an employee has been notified that they are being RIF'd, the employee option(s) may be the following: the employee may ask for a re-assignment and subsequent re-employment based on availability of position openings. Seniority, performance, and type of appointment shall be considered in determining the order of layoff. No employee is to be separated by a RIF until all temporary and probationary employees serving in the same job classification have been separated. A RIF employee will have first preference should the position that he/she was RIF from ever comes open in the future. A RIF is not subject to challenge through the grievance procedure.

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At no time will a Supervisor give a verbal termination notice, it should always be a written form and the Supervisor should meet with employee to formal notify them.

**2. Unemployment Compensation and Severance Pay.**

Any employee terminated under a 'reduction in force' may be eligible for unemployment compensation. RST will pay severance in the amount of:

Less than one year of employment - salary equivalent of one week

One year or more of employment - salary equivalent of one pay period

**VIII. Employee Check-Out Requirements.**

Immediately upon receipt of a lay-off, resignation or termination order, and before the employee is issued a final pay and leave accrual check, the employee shall complete clearance with the following Departments:

- Human Resources Department
- Finance Office
- Property and Supply Office
- Rosebud (RST) PAID Program

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**IX. DEFINITIONS.**

**Absent w/o Approval.** Absence from work without authorization from the employee's immediate supervisor.

**Absent w/o Leave.** Absence from work with authorization from the employee's immediate supervisor but without accrued sick or annual leave to off-set absence.

**Active Duty.** Currently serving in the Armed Forces.

**Administrative Leave.** A specific release-from-work for RST employees granted at the discretion of the Tribal President, or his/her designee and subject to approval by the employee's immediate supervisor (taking into consideration whether the employee(s) can be spared without detriment to the Department).

**Compensatory Time.** The hours absent from duty granted to compensate for authorized overtime.

**Constitutional Officers.** Secretary, Treasurer, Sergeant-of-Arms.

**Contract Consultant.** Any person who is retained pursuant to a contract with the RST.

**Days.** Refers to calendar days unless specified otherwise as "working" days.

**Director.** The head of a Department or program that is responsible for the administration of a department, program, or project. This definition also includes: Coordinator; Administrator; Manager, Program Manager or Director, Department Head.

**Disciplinary Action.** A verbal or oral warning, written warning or reprimand, suspension, or termination exercised at the discretion of the employee's immediate supervisor or Director.

**Effective Date.** The date at which any personnel action begins or ends.

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**Employee.** Any person in the employ of the RST who comes within II. A - D of this Personnel Policies and Procedures Manual.

**Fair Labor Standards Act.** The federal act codified at 29 U.S.C. section 218, et seq. This Act and the implementing regulations codified at 29 C.D.R. Pt. 541, et seq. are guidelines for implementing provisions in this Policy and Procedures Manual principally concerning overtime/compensatory time for non-exempt employees.

**FlexTime.** Up to a two (2) hour variation in the normal work day that may be taken by employees in special circumstances upon pre-approval.

**Grievance.** A complaint brought by an employee pursuant to RST Ordinance 2009-01.

**Immediate Family.** Father or Mother (including step); Husband or Wife, including Common-Law relationships; Brother or Sister (including step or half); Son or Daughter (including step or adopted by tradition or law); Grandparents, Grandchildren; Hunka relationships; 1<sup>st</sup> degree family members, as follows: Uncle, Aunt, Nephew, Niece; Father-in-law, Mother-in-law; Brother-in-law, Sister-in-law.

**Indian Preference.** The Policy of the RST set forth in Tribal Council Resolution No. 73-07 that preference in hiring be to tribal members or other Indians.

**Member.** An enrolled member of the RST Tribe.

**Nepotism.** A display of favoritism on the basis of family relationships.

**Non-Member.** A non-member of the RST includes non-Indians and members of other federally recognized tribes.

**Outside Activity.** Outside work, participation on boards, volunteer activities and so forth.

**Outside Work.** Any gainful employment other than the performance of official duties, including but not limited to, self-employment, working for another employer, and management of a private business for profit and so forth.

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**Minimum Qualifications.** Those qualifications that are necessary to perform the duties of the position.

**Moonlighting.** Holding a second (dual) position (by a tribal employee).

**Pay Range.** The minimum, intermediate or maximum rates of pay established for a particular position.

**Personnel Action Form.** A standard form which reflects pertinent information regarding hiring or any other changes in an employee's status.

**Political Appointee.** (a) An employee directly appointed by the Tribal President/Vice - President or his/her designee to a tribal position and for whom employment conditions are set forth by the Tribal President. (b) Staff of a political appointee for whom employment conditions are set forth by the Presidential/Vice-Presidential political appointee.

**Position.** A group of current duties and responsibilities assigned or delegated by the Director to one person. A place of occupancy within the tribal services with defined responsibilities as documented by a job description.

**Probation.** Specific time periods in which the employee's work is evaluated to determine fitness for a position in tribal service.

**Promotion.** The movement of an employee from one position to another resulting in an increase in pay and/or increase in duties.

**Reduction in Force (RIF).** The separation of an employee from tribal employment by reason of lack of work or funds due to program reduction, reorganization or other administrative adjustments.

**Resignation.** The end of employment made at the request of the employee

**Rotating Shift Employee.** An employee in a program which provides services around the clock and which utilizes rotating shifts.



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**Seasonal Layoff w/o Pay.** A temporary suspension of job duties as required by program workflow.

**Supervisor.** Anyone who has supervisory authority over other personnel.

**Suspension.** An enforced leave of absence for disciplinary purposes.

**Transfer.** The movement of an employee to another Department or position.

**Tribal Council.** The policy making and governing body of the Rosebud Sioux Tribe.

**24/7 Employee.** An employee of a program which provides services of an emergency nature and which may require employees to be on-call 24 hours/day and 7 days/week.

**Vacancy.** A duly created position which is not occupied and for which funds have been allocated.

**Adopted by the Rosebud Sioux Tribe Tribal Council with a first reading January 16, 2009 and seconded reading on February 25, 2009, as Ordinance No. 2007-09.**



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***Ordinance No 2020-10***

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