

**TITLE 11
EMPLOYMENT RELATIONS CODE
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CHAPTER ONE
GENERAL PROVISIONS

Section 101. Title

This Employment Relations Code, herein after known as “ERC”, is the official employment law of the Seminole Nation of Oklahoma.

[HISTORY: Ordinance No. 74-2, June 8,1974; Ordinance No. 76-1, July 17, 1976;
Ordinance No. 88-3, April 15, 1988; Codified by Law 91-12, November 16, 1991;
Amended by TO-2015-06, July 25, 2015]

Section 102. Former Law Repealed

The ERC supersedes the former provisions in Title 11, the Nation's Personnel Policies and Procedures Manual and all other policies, rules, and regulations enacted by Legislative resolutions pertaining to the employment law of the Nation.

[HISTORY: Ordinance No. 74-2, June 8,1974; Ordinance No. 76-1, July 17, 1976;
Ordinance No. 88-3, April 15, 1988; Codified by Law 91-12, November 16, 1991;
Amended by Law 94-4, March 5, 1994; Amended by TO-2015-06, July 25, 2015]

Section 103. Applicability

This Code is applicable to all employees of the Seminole Nation.

[HISTORY: Ordinance No. 74-2, June 8,1974; Ordinance No. 76-1, July 17, 1976;
Ordinance No. 88-3, April 15, 1988; Codified by Law 91-12, November 16, 1991;
Amended by TO-2015-06, July 25, 2015]

Section 104. Definitions

Whenever the following terms are used in the ERC, they shall have the meanings indicated.

- (A) **Abandonment** - Absent without authorized leave for three (3) consecutive work days

- (B) **Agency** - Any external organization or unit engaged in business, providing services, information, or goods within the jurisdiction of the Seminole Nation.

(C) **Appointments**

(1) **Acting Appointment** -The temporary assignment of a person to a vacant position in the absence of the employee who normally fills such position. Persons appointed to acting assignments must possess the minimum qualifications for that position. Such persons shall have limited responsibilities and authority of the position unless directed otherwise by the Executive Office. Persons appointed to acting assignments will be paid their normal salary, plus ten (10) percent of their normal salary for the duration of the Acting Appointment or until a replacement has been hired.

(D) **Class** - A group of positions sufficiently similar in respects to the duties and responsibilities may be used with clarity to designate each position allocation to the class; common requirements such as to education, experience, knowledge, ability and other qualifications exist for all incumbents; common tests of fitness may be used to choose qualified employees; and the same schedule of compensation can be made to apply with equity under the same or substantially the same employment conditions.

(E) **Classification Plan** - A listing of job titles and descriptions in regular service.

(F) **Cohabit or Cohabitant** - Two individuals living together, who are financially and intimately associated in a committed relationship, yet not legally married.

(G) **Comparable Wage** - A wage that is up to 15% of the current wage or previous wage, unless otherwise authorized in writing.

(H) **Compensation** -The payment made to employees in consideration of the number of hours worked in accordance with payment schedules, including pay for overtime and other forms of payment in connection with the performance of job assignments. Total compensation refers to that amount of pay plus employment related benefits received by employees, including contributions to the employee's medical and dental programs, retirement, sick and annual leave and other similar benefits.

(I) **Continuous Employment** - Employment without interruption, including authorized vacation, military leave, or other paid leaves, unpaid Family Medical Leave, or other approved leaves of absence.

(J) **Dates**

(1) **Annual Review Date**. The date one (1) year from the Original Date of Hire and each subsequent year of continuous employment.

(2) **Original Date of Hire**. The initial date of hire to a regular position.

(K) **Director** - The head of a specific Department.

(L) **Demotion** - A change in employment status resulting in movement from one position to another that has lower qualifications and/or lesser job responsibilities and assigned a lower pay range.

(M) **Employee** - Any individual employed by the Seminole Nation, regardless of the source of the funds by which the employee is paid. The term “employee” shall include any person elected or appointed. The Nation further classifies its employees as follows:

(1) **At -Will Employee** - An employee who is subject to termination with or without cause or notice. The employee also has the right to leave at any time for any or no reason or notice.

(2) **Contract Employee** - An employee who has entered into a contractual employment agreement with the Seminole Nation. All such contracts shall conform to all Resolutions and/or laws passed by the Legislature with respect to the contracting process and shall comply with Federal Procurement regulations.

(3) **Exempt Employee** - An employee classified by the Nation as exempt is salaried. Such employees are those occupying executive, administrative, professional positions, appointed, and elected officials. Weekly salary is computed using the position’s annual fixed salary.

(4) **Nonexempt Employee** - An employee covered by overtime. Such employees are entitled to overtime pay for work required to be performed in excess of 40 hours per workweek

(5) **Full-time Employee** - An employee who regularly works a minimum of 30 hours per week on a continuous basis following a probationary period.

(6) **Part-time Employee** - An employee who has completed a satisfactory probationary period and regularly works *less than* 30 hours per week on a continuous basis. Part-time employees shall not hold supervisory positions.

(7) **Regular Employee** - An employee hired through the interview process, excepting appointed and elective positions.

(8) **Seasonal Employee** - An employee whose work is normally less than one (1) year but longer than six months, and who is expected to return on an annual basis.

(N) **Employer** - Employer as used in the ERC means any person who hires or employs any other person to perform work or services and pays for such services or work by means of wages or a salary and includes any person acting directly or indirectly in the interest of an employee in relation to an employee.

(O) **Examination** - The process of measuring and evaluating the relative ability and fitness of applicants by job related testing procedures, which may include a medical examination performed by a qualified health care provider.

(P) **Flex Classification** - A position classification where a new hire may be employed at a higher base pay rate, not to exceed 30% of the base rate, than stated for that position based on educational or work experience qualifications that exceed the minimum job requirements. Whereas, for a “No-Flex” position, the employee is hired at the starting base pay rate.

(Q) **Good Standing** - An employee, who provides two (2) weeks written notice of intent to resign and does not have any punitive or administrative action pending prior to the resignation, resigns in Good Standing.

(R) **Grievance** - A claimed violation, misinterpretation, or inequitable application of the policies and procedures having a direct adverse effect on the grieving employee.

(S) **Indian Tribe** - An Indian tribe, band, nation or other organized group or community recognized as such by the United States Government.

(T) **Lateral Transfer** - A change in employee status from one position to another position having the same or substantially similar duties and pay range.

(U) **Leave Without Pay** - Voluntary request by an employee for leave not exceeding 40 hours without pay.

(V) **Merit Increase** - Advancement of eligible employee’s current pay from one salary step to a higher salary step within the same salary range based on satisfactory demonstration of individual efficiency and performance.

(W) **Minimum Wage** - Minimum wage means the prevailing minimum wage as determined from time to time by the Legislature.

(X) **Misconduct** - A deliberate and substantial disregard of the employer’s interests or violation of the law or those standards of behavior, which an employer has a right to expect of every employee.

(Y) **Modified Duty Assignment** -The assignment of an employee, who has been injured on or off the job (except in connection with off-duty employment) and has been medically released to perform limited employment tasks, to a job in which the employee can perform tasks based on physical restrictions for a designated period of time.

(Z) **Native American or Indian** - An enrolled member of the Seminole Nation or an enrolled member of a federally recognized Indian tribe.

(aa) **Negligence** - An employee's failure to exercise safe and ordinary care in carrying out, applying, or complying with the ERC or other laws of the Nation. An employee is not using

ordinary care, and is therefore negligent, if the employee does something that a reasonable person knew or should have known was contrary to Tribal law or fails to do something that a reasonable person knew or should have known to be in compliance with Tribal law.

(bb) **Nepotism** - Favoritism shown to direct supervision of or the exercise of power or influence over relatives in employment or other services.

(cc) **Off-Duty Employment** - The simultaneous holding of a job (second job) outside of the Nation by an employee.

(dd) **Pay Rates.**

(1) **Base Rate** - The beginning pay for a job as stated on the job

(2) **Prorate** - The proportional calculation of equivalency to the whole or full amount; an equivalent level of benefit credits over a given period.

(ee) **Performance Evaluation** - A formal system to evaluate performance factors related to an employee's job duties, responsibilities and related employment characteristics on a regular and systematic basis by supervisory personnel.

(ff) **Person** - A natural person, Indian or non-Indian, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

(gg) **Probationary Period**

(1) **Initial Probationary Period** - A period of ninety (90) days in which a new hire or a rehired employee serves under close supervision and his or her performance is evaluated in order to assess his or her ability and adaptation. During the initial probationary period a new hire's job status is subject to greater scrutiny and if the Nation determines, in its sole discretion, that the new hire does not possess the necessary skill-set or interpersonal skills or does not meet job performance standards the decision to terminate the at-will employment relationship may take place more swiftly than if the employee had progressed beyond the initial probationary period.

(2) **Performance Probationary Period** - A period of thirty (30) days in which an employee, who is promoted, demoted, laterally transferred, recalled to a different position, or a rehired employee, serves under close supervision and his or her performance is evaluated in order to assess his or her ability and adaptation.

(hh) **Professionals** - Occupations which require specialized knowledge and licensing, which is usually acquired through college training or through work, experience and other training which provides comparable knowledge.

(ii) **Promotion** - A change in employment status from one position to another position that requires higher minimum qualifications, is assigned more difficult duties and responsibilities, and is assigned a higher pay range.

(jj) **Reclassification** - The modification of job title and/or duties due to material difference between the existing job description and the actual job duties required to perform functions of a position.

(kk) **Separation**

(1) **Layoff** - Involuntary separation in good standing from employment for non-disciplinary reasons including, but not limited to, lack of funds or work, abolishment of position, reorganization, or the reduction or elimination of services.

(2) **Resignation** - Voluntary separation from employment in either "good standing" or "not in good standing."

(ll) **Suspension** - The temporary removal of an employee from service, without pay, for disciplinary or investigative reasons and for a specified period of time.

(mm) **Termination** - Involuntary separation from employment not in good standing.

(nn) **Temporary Reassignment** - A short-term, not to exceed 90 days, placement in a different position of employment due to business needs.

(oo) **Unpaid Leave of Absence** - Voluntary request for leave without pay, which exceeds 40 hours. Unpaid Leave of Absence not related to FMLA must be approved by the HR Director and Executive Office.

[HISTORY: Ordinance No. 74-2, June 8, 1974; Ordinance No. 76-1, July 17, 1976; Ordinance No. 88-3, April 15, 1988; Codified by Law 91-12, November 16, 1991; Amended by Law 94-4, March 5, 1994; Amended by TO-2015-06, July 25, 2015]

Section 105.-107 RECODIFIED

[HISTORY: Former §§ 105-107 Re-Codified and Amended as §§ 205-206 by TO-2015-06, July 25, 2015]

CHAPTER TWO **PERSONNEL BOARD**

Section 201. Personnel Board Established

There is hereby established a Personnel Board of the Seminole Nation of Oklahoma.

[HISTORY: Ordinance No. 74-2, June 8, 1974; Ordinance No. 76-1, July 17, 1976;
Ordinance No. 88-3, April 15, 1988; Codified by Law 91-12, November 16, 1991;
Renumbered by TO-2015-06, July 25, 2015]

Section 202. Membership

The Personnel Board shall consist of five members of the Seminole Nation appointed by the Principal Chief and confirmed by the General Council. The term of office shall commence on date of appointment and end on September 30, 1997 and every four years thereafter. The Principal Chief shall also designate a tribal office, namely the Human Resources Director, or designee, to perform personnel responsibilities.

[HISTORY: Ordinance No. 74-2, June 8, 1974; Ordinance No. 76-1, July 17, 1976;
Ordinance No. 88-3, April 15, 1988; Codified by Law 91-12, November 16, 1991;
Amended by Law 94-4, March 5, 1994; Amended by TO-2015-06, July 25, 2015]

Section 203. Removal

Members of the Personnel Board shall be removed only for good cause pursuant to Article IX, Section 1, Seminole Constitution. In the event of any vacancy by reason of death, resignation or removal, a successor member shall be appointed by the Chief subject to approval by the General Council for the remainder of the term vacated.

[HISTORY: Ordinance No. 74-2, June 8, 1974; Ordinance No. 76-1, July 17, 1976;
Ordinance No. 88-3, April 15, 1988; Codified by Law 91-12, November 16, 1991;
Renumbered by TO-2015-06, July 25, 2015]

Section 204. Chairman

The Board shall elect a Chairman from its membership.

[HISTORY: Ordinance No. 74-2, June 8, 1974; Ordinance No. 76-1, July 17, 1976;
Ordinance No. 88-3, April 15, 1988; Codified by Law 91-12, November 16, 1991;
Amended by Law 94-4, March 5, 1994; Renumbered by TO-2015-06, July 25, 2015]

Section 205. Responsibilities

The Personnel Board shall be responsible for the following personnel matters for all employees of the Seminole Nation of Oklahoma, excluding employees of gaming or any other business enterprises owned or operated by the Seminole Nation:

- (a) Development and approval of all personnel policies;
- (b) Review of activities related to recruitment, replacement and hiring, promotions, position transfers, disciplinary actions and;
- (c) Reporting to the General Council upon request or as needed regarding proposed amendments to laws affecting personnel matters and other matters related to personnel;
- (d) Serving as hearing board for personnel grievances, provided that all personnel grievance hearings and appeals shall be conducted by the Personnel Board in a manner consistent with procedures set forth in Title 16, Section 713 of the Code of Laws of the Seminole Nation; provided that the appealing party shall have the right to be represented by legal counsel at his own expense; and provided further that the decision of the Personnel Board in such matters shall be final and unappealable to any other administrative hearing board; and
- (e) Any other function set forth in Title 11 herein.

[HISTORY: Ordinance No. 74-2, June 8, 1974; Ordinance No. 76-1, July 17, 1976; Ordinance No. 88-3, April 15, 1988; Codified by Law 91-12, November 16, 1991; Amended by Law 94-4, March 5, 1994; Amended by TO-2015-06, July 25, 2015]

Section 206. Regulations

The Personnel Board may adopt rules and regulations consistent with Title 11 herein and the Constitution of the Seminole Nation of Oklahoma.

[HISTORY: Ordinance No. 74-2, June 8, 1974; Ordinance No. 76-1, July 17, 1976; Ordinance No. 88-3, April 15, 1988; Codified by Law 91-12, November 16, 1991; Amended by Law 94-4, March 5, 1994; Renumbered by TO-2015-06, July 25, 2015]

Section 207. Repeal

This Ordinance and amendments shall supersede any and all previous ordinances concerning employment of personnel for the Seminole Nation of Oklahoma.

[HISTORY: Ordinance No. 74-2, June 8, 1974; Ordinance No. 76-1, July 17, 1976; Ordinance No. 88-3, April 15, 1988; Codified by Law 91-12, November 16, 1991; Renumbered by Ordinance No. 2015- , July 25, 2015]

CHAPTER THREE
EMPLOYEE AND OFFICER SALARIES

Section 301. Officer Salaries

The salaries of officers of the Seminole Nation shall be approved by General Council:

[HISTORY: Ordinance 74-1, June 8, 1974; Ordinance No. 91-07, August 29, 1991, Sec. 4; Codified by Law No. 91-12, November 16, 1991; Amended by Law No. 91-17, December 7, 1991; Amended by Law No. 92-14, September 19, 1992; Amended by Law No. 93-20, September 24, 1993; Amended by Law No. 94-12, September 3, 1994; Amended by Law No. 94-15, November 19, 1994; Amended by Law No. 95-04, June 3, 1995; Amended by Law No. 97-01A, February 3, 1997; Amended by Law No. 97-07, September 27, 1997; Amended by Law No. 98-02, November 9, 1998; Amended by Law No. 99-04, September 4, 1999; Amended by Law No. 2000-05, October 7, 2000; Amended by Law No. 2001-06, April 21, 2001; Amended by Ordinance No. 2003-12, September 6, 2003; Amended by Ordinance No. 2006-15, September 26, 2006; Amended Ordinance No. 2007-09, August 21, 2007; Amended Ordinance No. 2007-10, August 21, 2007; Amended Ordinance No. 2007-11, August 21, 2007; Amended Ordinance No. 2007-12, December 1, 2007. Amended Ordinance No. 2012-15, October 27, 2012; Amended by TO-2015-06, July 25, 2015]

Section 302. Wage and Salary Scales

The Personnel Board is responsible for reviewing wage and salary scales which shall set salary ranges for tribal employees. Merit increases shall also be in accordance with the salary scale and in accordance with resolutions of the General Council approving the operating budget of the Seminole Nation.

[HISTORY: Law No. 91-12, November 16, 1991;
Amended by TO-2015-06, July 25, 2015]

Section 303. Employee Salaries

(a) There is hereby established a Salary Scale for employees of the Seminole Nation which shall be approved by the Personnel Board.

(b) In addition to amounts reflected on the Salary and Wage Schedule, employees of the Seminole Nation may receive an annual three percent (3%) cost of living adjustment as approved by the General Council.

[HISTORY: Law No. 91-12, November 16, 1991; Codified by Ordinance No.2006-14,
December 9, 2006; Amended by TO-2015-06, July 25, 2015]

Section 304. Native American Day Established

Within the Seminole Nation, Native American Day shall be declared a government holiday and observed on the Monday immediately following Seminole Nation Days, and Seminole Nation government offices shall be closed.

[HISTORY: Ordinance No. 2010-07, September 4, 2010;
Renumbered by TO-2015-06, July 25, 2015]

Section 305. Annual Leave Fund Established

The Tribal Treasurer is hereby authorized to establish an agency fund to be known as the "Annual Leave Fund".

[HISTORY: Law No. 91-15, December 7, 1991;
Renumbered by TO-2015-06, July 25, 2015]

Section 306. Purpose

The purpose of this fund shall be to act as custodian for funds to pay vested accumulated unpaid annual leave benefits.

[HISTORY: Law No. 91-15, December 7, 1991;
Renumbered by TO-2015-06, July 25, 2015]

Section 307. Funding

The Executive Office is hereby authorized to accrue annual leave as it earned and when vested to make corresponding payments to the Annual Leave Fund.

[HISTORY: Law No. 91-15, December 7, 1991;
Renumbered by TO-2015-06, July 25, 2015]

Section 308. Employees Covered

All employees of the Seminole Nation are covered by the provisions of this ordinance.

[HISTORY: Law No. 91-15, December 7, 1991;
Renumbered by TO-2015-06, July 25, 2015]

Section 309. Fund Management

Funds are to be placed in an interest bearing account. Idle funds may be invested in short-term risk free investments with interest thereon to be used to pay for increases in annual leave benefits payable resulting from increases in the annual compensation base of employees. Expenses associated with fund management (i.e., check printing charges, service charges, etc.) are allowable expenditures of Annual Leave Fund proceeds.

[HISTORY: Law No. 91-15, December 7, 1991; Ordinance No. 2007-07, July 24, 2007;
Renumbered by TO-2015-06, July 25, 2015]

CHAPTER FOUR
HUMAN RESOURCES

Section 401. Authority

(A) Department of Human Resources: The Director of the Department of Human Resources (HR Director) is delegated the functions and authority to implement, manage, enforce, and promulgate i.e. create, establish, publish, make known and carry out the policies within this Code.

(B) Departments and Units.

(1) Each department, division, or unit of the Nation with the approval and consultation of the HR Director may develop, implement, and revise as necessary internal procedures and operating rules pertaining to the unique operational requirements of the work unit for efficient and effective performance. Advance notice of internal unit procedures and rules shall be provided to employees and must be posted in public places to serve as notice to all employees.

(2) Internal unit procedures and rules shall not conflict with the ERC. Where conflicts may arise between internal rules and procedures, the ERC will govern.

[HISTORY: Ordinance No. 2015-06, July 25, 2015]

[HISTORY NOTE: Former § 401 Re-Codified in Title 11A by
Ordinance No. 2015-07, July 25, 2015]

Section 402. Employment Clause

(A) Equal Employment Opportunity. With the exception of Seminole Nation Preference in Employment as set forth in paragraph (B), below, it will be a violation of the ERC to discriminate against any individual as it relates to hiring, firing or any aspect of the terms and conditions of the employment relationship based on an applicant or employee's gender (including pregnancy), race, color, religion, national origin, age, genetic information, status as a veteran, marital status, sexual orientation or disability, and all other categories protected by applicable and enforceable law(s).

(B) Seminole Tribal Preference in Employment Clause. The Nation exercises Tribal Preference in employment and may exercise Native American Preference in employment under limited circumstances, when such action furthers a legitimate governmental purpose.

(C) Seminole Tribal Preference may be used to recruit, hire, train, recall and lay off employees of the Nation. For hiring purposes, Tribal preference/Native American preference is afforded to distinguish between equally qualified candidates or applicants for a position. The HR

Department is responsible for monitoring the Preference Policy. Disciplinary action may occur for supervisors who are found to have not adhered to this policy.

(D) Hiring Policy. Upon an offer of employment, the Nation shall require a pre-employment medical screening and background investigation. Subject to the results of the pre-employment testing, confirmation of employment shall be made by the HR Department or designee.

[HISTORY: Ordinance No. 2015-06, July 25, 2015]

[HISTORY NOTE: Former § 402 Re-Codified in Title 11A by Ordinance No. 2015-07, July 25, 2015]

Section 403. Employee Records

(A) Access to Employee Information. All employees may request to review his/her personnel file by submitting a written request to the Department of Human Resources. Such requests may be granted or denied in the sole discretion of the HR Department or designee based on the merits of the request and the business needs of the Nation.

(B) Disclosure of Employee Records.

(1) The Nation shall not disclose, in replying to external inquiries, any personnel or related records or information on an applicant, employee, or former employee, except pursuant to valid subpoena, court order or other administrative document that compels the Nation to provide the information and/or documents.

(2) Limitation on Access. Nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of an administrative or judicial action or proceeding.

[HISTORY: Ordinance No. 2015-06, July 25, 2015]

[HISTORY NOTE: Former § 403 Re-Codified in Title 11A by Ordinance No. 2015-07, July 25, 2015]

Section 404. Harassment.

(A) Harassment (including physical, verbal and non-verbal conduct) is a form of non-consensual employee misconduct engaged in as a result of another employee's gender (including pregnancy), race, color, religion, national origin, age, genetic information, status as a veteran, marital status, sexual orientation or disability both demeans another person and undermines the integrity of the employment relationship by creating an unreasonably intimidating, hostile, and objectively offensive working environment.

- (1) Sexual harassment includes, but is not limited to:
 - (i) Sexual flirtation, touching, advances or propositions;
 - (ii) Verbal abuse of a sexual nature;
 - (iii) Graphic or suggestive comments about an individual's dress or body;
 - (iv) Sexually degrading words to describe an individual; and
 - (v) The display in the workplace of sexually suggestive objects or pictures.

(B) No employee shall be subject to retaliation or retribution for reporting harassment. Retaliation or retribution is strictly prohibited.

[HISTORY: Ordinance No. 2015-06, July 25, 2015]

[HISTORY NOTE: Former § 404 Re-Codified in Title 11A by Ordinance No. 2015-07, July 25, 2015]

Section 405. Sexual Harassment

- (A) The purpose of the Seminole Nation sexual harassment policy is to:
- (1) Prohibit sexual harassment in the workplace.
 - (2) Encourage employees who are victims or witnesses of sexual harassment to report such instances.
 - (3) Establish an administrative procedure for the reporting of instances of sexual harassment.
- (B) Sexual harassment by or of supervisors, employees, or non-employees is strictly prohibited and will be investigated for possible disciplinary action.
- (1) No employee shall be subjected to unsolicited and/or unwelcome sexual overtures or conduct, either verbal or physical.
 - (2) Sexual harassment will be treated as misconduct with appropriate disciplinary sanctions, up to and including termination of employment.
 - (3) No employee shall be subject to retaliation or retribution for reporting sexual harassment. Retaliation or retribution is strictly prohibited.

(4) The Department of Human Resources shall promulgate guidelines and procedures for the reporting and complaint handling procedures within the Nation.

(C) Penalties

(1) Where an investigation concludes that an employee has committed an act of sexual harassment, the employee may be subject to disciplinary action up to and including termination of employment.

(2) Providing false information in the course of a sexual harassment investigation is grounds for disciplinary action, up to and including termination.

[HISTORY: Ordinance No. 2015-06, July 25, 2015]

[HISTORY NOTE: Former § 405 Re-Codified in Title 11A by Ordinance No. 2015-07, July 25, 2015]

Section 406. Whistleblower Protection

Employees who make disclosures described in this section serve the Nation's interests by assisting in the elimination of fraud, waste, abuse, unnecessary expenditures and any other illegal or unethical business practices. Employees making such disclosure(s) shall be protected from reprisals and shall not suffer adverse consequences as a result of prohibited personnel practices. All employees have a duty to report to the Human Resources Department information which the employee reasonably believes is a violation of any law, rule, policy, or regulation that is applicable to the Nation.

[HISTORY: Ordinance No. 2015-06, July 25, 2015]

[HISTORY NOTE: Former § 406 Re-Codified in Title 11A by Ordinance No. 2015-07, July 25, 2015]

Section 407 - 429. RECODIFIED

[HISTORY: Ordinance No. 2015-06, July 25, 2015]

[HISTORY NOTE: Former § 407 Re-Codified in Title 11A by Ordinance No. 2015-07, July 25, 2015]

CHAPTER FIVE
EMPLOYMENT POLICIES

Section 501. General Statements:

(A) Consent to tribal jurisdiction. Employees of the Seminole Nation of Oklahoma consent to the exclusive jurisdiction of its Grievance Processes, all employment policies, the application of tribal laws, both substantive and procedural, regarding any and all proceedings, matters and things relating to the employment relationship within the organization.

(B) Definition of Sovereignty and Sovereign immunity. The tribe is a sovereign nation existing within the borders of the USA. One aspect of the tribe's sovereign status is its immunity from certain lawsuits, including employment-related causes of action. Accordingly, the tribe cannot be sued in any court without its consent. Nothing in this ERC constitutes, or should be interpreted as constituting, a waiver of the tribe's sovereign immunity.

(C) Employment at-will Policy. Employment with the tribe is voluntary and therefore employees are free to resign at will at any time with or without cause or reason. Likewise, the tribe may terminate the employment relationship at will at any time with or without notice and for cause or for any reason deemed appropriate by the tribe. This policy is commonly referred to, as employment at-will. Nothing in the ERC creates an employment contract or modifies the at-will nature of employment with the tribe and sections of the ERC may be changed by the Nation at any time. The Human Resources Department and all management staff makes every effort to make sure employees are aware of changes.

[HISTORY: Enacted by Ordinance TO-2008-08, April 8, 2008;
Amended by TO- 2015-06, July 25, 2015]

Section 502. Position Classification and Allocation

(A) Job Descriptions. The Nation shall maintain a job description on each separate position. The continuation of the class of employment is contingent upon funding authorization. The Nation reserves the right to change or reclassify positions based upon business need.

(B) Position Reclassification

(1) Reclassification requests may be initiated by individual supervisory personnel, and all such requests must be substantiated in writing with such specific detail given to those duties and responsibilities being performed continuously for six (6) months that are different in scope from those contained in the applicable job description.

(2) Reclassification of a position shall not be intentionally used for the purpose of discrimination, personal gain, discipline, or retaliation.

(3) For reclassification that includes an increase in salary, a budget modification must be approved by the SNO Finance Committee (SNO-FC). If approved by SNO-FC, then the budget modification must be approved by the SNO General Council.

[HISTORY: Enacted by Ordinance TO-2008-08, April 8, 2008;
Amended by TO- 2015-06, July 25, 2015]

Section 503. Vacancies

(A) Position vacancies will be filled based on job description standards after notification of the vacancy to the HR Department.

(B) The Seminole Nation makes it a general policy (subject to change based on business needs) that:

(1) All vacant positions shall be posted to the general public as soon as the vacancy is known and shall remain posted for a period of two (2) weeks.

(2) Once the position has closed, the applications shall be screened by the HR Departments based on minimum qualifications of the position and then forwarded to the Hiring Manager.

[HISTORY: Enacted by Ordinance TO-2008-08, April 8, 2008;
Amended by TO- 2015-06, July 25, 2015]

Section 504. Probationary Period

(A) New hire and rehired employees shall serve an Initial Probationary Period of ninety (90) days. During an Initial Probationary Period, an employee will accrue annual leave but is not eligible to use it until the completion of the probationary period.

(B) The probationary employee may not file a grievance, except in matters pertaining to prohibited discrimination, retaliation or harassment.

(C) New Hire employees, regardless of classification are eligible for all Holidays observed by the Nation.

(D) New employees who have completed the initial 90-day Initial Probationary Period are eligible for all benefits enjoyed as a regular full-time employee.

[HISTORY: Enacted by Ordinance TO-2008-08, April 8, 2008;
Amended by TO- 2015-06, July 25, 2015]

Section 505. Performance Probationary Period

(A) Promoted, demoted, laterally transferred into a different position, recalled into a different position employees must serve a Performance Probationary Period of 30 days.

(B) No probationary employees shall be promoted, demoted, transferred, or be temporarily reassigned during a probationary period.

(C) Employee Performance Evaluation. At the completion of an Initial or Performance Probationary Period, an employee shall receive an Employee Performance Evaluation with or without a merit pay increase.

[HISTORY: Enacted by Ordinance TO-2008-08, April 8, 2008;
Amended by TO- 2015-06, July 25, 2015]

Section 506. Employee Separation

(A) Termination - An employee's involuntary separation from employment, save a layoff, permanently ends the employment relationship between the employer and employee.

(C) Resignation - An employee voluntarily wishing to leave employment with the Seminole Nation in good standing must file a written resignation with the immediate supervisor at least two (2) weeks prior to the effective date, stating specific reason(s) for the resignation. The employee's resignation shall be promptly forwarded to the Human Resources Director.

(C) Layoff - An employee may be subject to layoff for reasons including, but not limited to; lack of funds or work, elimination of position, or reorganization.

(i) Whenever it becomes necessary to reduce the work force through layoffs, the Nation will endeavor where possible to provide affected employees with at least ten (10) working days notice. The Nation may provide two weeks severance pay in lieu of ten working days prior to notice of layoff.

(ii) Employees shall be afforded the opportunity to apply for a voluntary layoff, when a layoff plan is being instituted.

(iii) When a layoff is to be implemented, the Human Resources Director will prepare a layoff plan. The plan will identify the number of positions by classification and identify incumbents to be laid off through the objective consideration of both ability and/or seniority in the position.

[HISTORY: Enacted by Ordinance TO-2008-08, April 8, 2008;
Amended by TO- 2015-06, July 25, 2015]

Section 507. Recall Policy

The names of employees who are laid off or continue employment in a lower position will be placed on a Recall List giving the position held at the time of layoff. The Recall List will be maintained for a period of six (6) months from the effective date of the layoff.

[HISTORY: Enacted by Ordinance TO-2008-08, April 8, 2008;
Amended by TO- 2015-06, July 25, 2015]

Section 508. Rehire Policy

(A) Former employees of the Nation who resigned in good standing and are rehired within three (3) months into the same position in the same department will be assigned the same rate of pay. A new Annual Review Date shall be established.

(B) Former employees that are rehired into any other position within six (6) months will be, assigned a pay rate in the same manner as a new hire. A new Annual Review Date shall be established and the employee must complete a 90-day Initial Probationary Period with/without possibility of a merit pay increase.

(C) Employees who resigned without good standing shall be treated as a new hire.

(D) Former employees who did not resign in good standing or who were terminated as a result of misconduct must submit a Rehire Request through the HR Department. HR will review the former employee file, consult with the departmental director, and with approval of the Principal Chief, will make a determination on the former employee's rehire status. The decision is final.

[HISTORY: Enacted by Ordinance TO-2008-08, April 8, 2008;
Amended by TO- 2015-06, July 25, 2015]

Section 509. Employment of Relatives. Nepotism is strictly prohibited

(A) No employee may hold a job over which a member of his/her immediate family exercises supervisory authority. Immediate family is defined as parent, grandparent, sibling, child, step relative, spouse, or cohabitant.

(B) Any violation of the nepotism provision mandates that the supervisor or HR Director must cure the violation within three (3) work days or obtain the resignation of or terminate the person(s) violating the nepotism law.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 510. No Solicitation or No Distribution Policy

The solicitation of memberships or pledges, collection of funds, circulation of petitions, distribution of any printed materials, trespass, and any other similar types of activities by non-employees, on behalf of any organization, group, society, or individual, is not permitted on the Nation's property, facilities, unless a written permit is given by the Executive Office. Fund raisers sponsored by the Nation's Employee Events Team will be allowed.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

CHAPTER SIX
COMPENSATION AND PAYROLL PRACTICES

Section 601. Salary/Wage

- (A) Nonexempt employees will be paid at an hourly rate, for purposes of payroll accounting.
- (B) Elected officials, appointed officials and exempt employees shall be paid a fixed salary.
- (C) Compensation for Unauthorized Leave. Unauthorized leave or unexcused absence will not be compensated in any form.
- (D) No employee shall be paid less than the federal minimum wage.

[HISTORY: Enacted by Ordinance TO-2008-08, April 8, 2008;
Amended by TO- 2015-06, July 25, 2015]

Section 602. Salary and Wage Merit Adjustments

- (A) The Nation may periodically revise pay rates or ranges resulting from studies of prevailing wages and other influential considerations. The Human Resources shall promulgate a standardized schedule to determine benchmarks for merit wage increases.
- (B) To be eligible for merit increases, employees must not have any categorical rating equal to “unacceptable” or “need improvement” on their Annual Performance Evaluation.
- (C) The percentage of a merit increase will be determined in accordance with the Nation’s classification and compensation plan, the availability of funding and approval of Tribal Council.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 603. Compensation upon Position Reclassification

- (A) If a position is reclassified to a class having the same pay rate as the previous class, and if the employee meets the requirements of the reclassified position, the employee's pay rate and Annual Review Date shall not change, otherwise:
- (B) If the position is reclassified to a class with a higher pay rate than the previous class and if employee meets the requirements of the reclassified position, then the employee's pay rate shall change to equal the base rate of the new position. If his or her current rate of pay is

higher than the reclassified position's rate of pay then his or her rate will remain the same. In either case, the employee's Annual Review Date will not change.

(C) If the position is reclassified to a lower pay rate class, and if the employee is retained to occupy the reclassified position, the employee's pay rate and Annual Review Date shall be unchanged. If the employee's pay rate in the former position is greater than the maximum rate established for the lower position, the employee's pay rate will be frozen until such time as the rate or range of the reclassified position reaches the employee's frozen rate.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 604. Transfer of Benefits

Regular employees upon transfer or reclassification shall carry over their Paid Time Off Benefits, unless prohibited by law or federal/state program guidelines.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 605. Compensatory Time

(A) All compensatory time must be pre-approved by the supervisor. Compensatory time may be paid only within appropriated funding levels.

(B) Overtime compensation for a given pay period will not be paid if the employee has any paid or unpaid leave during that pay period. An employee is limited to a maximum of forty (40) hours of paid compensation during a workweek in which an employee has taken any paid or unpaid leave.

(C) Approved Overtime will be available to all non-exempt employees and offered based on employee seniority.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 606. Employer Required Educational/Meeting Activities

Employee attendance at seminars, lectures, conferences, business-related meetings, and training programs at the direction of a supervisor will be considered hours worked and therefore compensable time.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 607. Travel Time

(A) Travel time in connection with approved travel will be considered compensable hours worked for employees. Employees will be compensated for actual hours worked, less usual meal and commute time.

(B) One day travel out of town or as part of the day's work activities will be counted as hours worked, excluding the employee's usual meal period and normal travel time to and from the employee's residence and work location where the day's travel starts and/or ends at the employee's residence.

(C) For overnight travel out of town, a nonexempt employee will be paid a minimum of eight (8) hours for each normally scheduled workday. Any work, including travel, that an employee is required to perform while traveling, other than on a normally scheduled workday, will be counted as hours worked.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 608. Compensation Upon Employment Separation

(A) Final compensation shall be inclusive, up to the hour and date of separation of hours worked and all forms of accrued but unused time deemed compensable. Deductions will be made against compensation such as any mandatory or voluntary deductions, including legally authorized offset against pay.

(B) Separated employees will receive their final paychecks on the day paychecks are normally distributed.

(C) In the event of an employee's death, the employee's beneficiary as shown in personnel records shall be entitled to receive the employee's final paycheck, except where the beneficiary is a minor, in which case the Nation may hold the employee's final paycheck until a legal recipient can be identified by the Nation.

(D) Any property issued to the employee by the Nation must be returned before or at the time the final paycheck is provided. Otherwise, the Nation will withhold the final paycheck and other reimbursements until the property is returned or replaced.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 609. Severance Pay

(A) A supervisor may request to provide two (2) week severance pay, in lieu of retaining the services of an employee for the two (2) week period upon receipt of advance notice of resignation or the Nation may provide two (2) weeks severance pay in lieu of a two (2) week dismissal notice, provided that:

- (1) The employee is not on probation;
- (2) The employee leaves in good standing; and
- (3) The Director of Human Resources authorizes the Payroll Office to disburse.

(B) The Nation has the sole discretion to determine whether to grant a request submitted pursuant to § 610(A).

(C) Limitation on Severance Pay: Employees, who are terminated as a result of misconduct for violation of the law or work rules, or while on probation, are not eligible to receive severance pay

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 610. Performance Evaluations

(A) The Director of Human Resources shall promulgate the process and procedures for Performance Evaluations to ensure regular reports are made as to the competence, efficiency, adaptation, conduct, merit, and other job related performance conditions of the Nation's employees.

(B) Annual Performance Evaluation - Supervisors shall be responsible for the completion of an annual evaluation up to ten (10) days prior to the employee's Annual Review Date.

(C) An employee who has not received an annual evaluation within thirty (30) days after his or her scheduled Annual Review Date may be eligible to receive a merit pay increase in a range of 0% to 4% as approved by Tribal Council, not to surpass the maximum rate of his or her pay range, if the following criteria have been met:

- (1) The employee has had no disciplinary action placed in his or her personnel file since the previous evaluation date.
- (2) The employee's previous evaluation met the criteria for a merit increase. If the employee has not received an evaluation since working with the Nation, assuming the employment has been continuous, it will automatically be assumed that the employee has met the evaluation criteria to receive a merit increase.
- (3) The employee is not currently on a temporary reassignment, any type of leave of absence, layoff or other event that would affect the employee's Annual Review Date.
- (4) The Nation has not imposed any temporary across-the-board payroll restrictions that would suspend merit increases for all employees.

(5) If the above criteria are met, the necessary documentation will be generated, signed and processed by the Human Resources Department granting the employee a pay increase effective the date that the employee's Annual Review Date was due.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 611. Other Workplace Policies

(A) Outside Employment - Employees may hold employment outside of their position with the Nation subject to the following restrictions:

(1) The employer requires that employees' activities and conduct away from their regular position, must not compete, conflict with or compromise its interests or adversely affect job performance and the ability to fulfill all responsibilities due to the employer. This requirement, for example, prohibits employees from performing any services for tribal customers on nonworking time that are normally performed by tribal personnel. This prohibition also extends to the unauthorized use of any tools or equipment and the unauthorized use or application of any confidential trade information or techniques. In addition, employees are not to solicit or conduct any outside business during paid working time.

(2) All employees, including part-time employees, must obtain prior approval from the HR Department before any outside employment or other work activity is undertaken. Failure to do this will result in disciplinary action, including possible termination.

(3) Notice to the supervisor of the second job must be provided in writing before the employee commencing work at the second job.

(4) Employees may not hold second job with other entities of the Seminole Nation as this could result in an overtime situation.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 612. Confidential Information

(A) Confidential information obtained as a result of employment shall not be used by an employee for any private interest, or personal gain, including employment verifications.

(B) Employment-related records and information are confidential and proprietary documents of the Nation. No person shall view or have access to personnel records or information without written consent of the employee.

(C) No confidential document or information shall be divulged to any person who does not possess the legal or operational right to know.

(D) All employees shall be required to sign a Confidentiality Agreement as a condition of employment.

(E) Use or disclosure of confidential information may result in civil or criminal penalties, or employee discipline, up to and including termination.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 613. Unlawful Conduct in Labor Controversies

It shall be unlawful for anyone to picket, or induce others to picket the establishment, employees, supply or delivery vehicles, or customers of anyone engaged in business or to interfere with the person's business, or interfere with any person or persons desiring to transact or transacting business with the person when a labor dispute exists.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 614. Garnishments

While, as a sovereign government, the Nation is not bound by non-child support garnishment orders of state, municipal, or tribal courts, other than the Nation's Tribal Court, the Nation as a matter of policy has chosen to honor certain garnishment orders.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 615. Unemployment Compensation

Although the Tribe is not required by law to provide unemployment compensation insurance, it is nonetheless provided and is paid for entirely by the tribe.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

CHAPTER SEVEN
EMPLOYEE BENEFITS

Section 701. General

The Nation reserves the right to add, eliminate, or in other ways modify any discretionary benefits based upon the Nation's capacity to fund for the benefits.

[HISTORY: Enacted by Ordinance TO-2012-12, October 27, 2012;
Amended by TO- 2015-06, July 25, 2015]

Section 702. Benefits & Leave

(A) **Mandatory Benefits.** The mandatory benefits offered by the Nation will apply to regular employees, whether exempt or nonexempt status, unless otherwise provided in a particular benefit plan or employment agreement/contract.

(1) **Social Security.** Social Security benefits are automatically deducted from an employee's payroll check.

(2) **Worker's Compensation.**

(3) **Unemployment Insurance.** Employees may be eligible for unemployment benefits upon termination of service with the Nation.

(B) **Discretionary Benefits**

(1) **Benefit Plans**

(i) **Group Health-Care Plans.** The Nation makes available health-care plans for eligible employees and their dependents. Benefits consist of routine medical care, hospitalization, medical prescriptions, vision, and dental plans.

(ii) **Life insurance plans. (Basic and Voluntary)**

(iii) **A 401k Plan for retirement benefits.**

(iv) **Other benefits may be added as necessary.**

[HISTORY: Enacted by Ordinance TO-2012-12, October 27, 2012;
Amended by TO- 2015-06, July 25, 2015]

Section 703. Leave Benefits

(A) Part-time employees shall earn paid leave at 50% of the benefits of the full-time employee.

(B) Full-Time employees shall earn the full accrual for each 80 hour pay check worked. Regular hours worked, plus any paid leave constitutes “a full 80 hour” pay check. Leave will be pro-rated according to the number of hours worked.

(C) Restitution - If the existence of fraud by any person resulting in benefits to which he/she was not entitled, has been found by any court of competent jurisdiction, such person shall be liable to repay such amount to the Seminole Nation or to have such sum deducted from any future benefits payable to him or her under said laws.

[HISTORY: Enacted by Ordinance TO-2012-12, October 27, 2012;
Amended by TO- 2015-06, July 25, 2015]

Section 704. Seminole Nation Holidays

(A) All employees (regular or part-time) are eligible to observe the following recognized holidays:

- (1) Martin Luther King’s Birthday
- (2) President’s Day
- (3) Good Friday
- (4) Memorial Day
- (5) Independence Day
- (6) Labor Day
- (7) Native American Day (*Monday following Seminole Nation Days*)
- (8) Veterans Day
- (9) Thanksgiving Day – this holiday shall include Thursday and Friday
- (10) Christmas Holiday – this holiday shall contain the following provisions:
 - (i) Christmas on Monday – Christmas and Tuesday
 - (ii) Christmas on Tuesday – Christmas and Monday
Christmas on Wednesday – Christmas Eve ½ day, Christmas and Thursday

- (iii) Christmas on Thursday – Christmas Eve ½ day, Christmas and Friday
- (iv) Christmas on Friday – Christmas Eve and Christmas
- (v) Christmas on Saturday – Christmas Eve and Christmas
- (vi) Christmas on Sunday – Christmas and Monday

(11) New Year’s Day – this holiday shall contain the following provisions:

- (i) New Year’s Day on Monday thru Friday – New Year’s Day only
- (ii) New Year’s on Saturday – Friday holiday
- (iii) New Year’s on Sunday – Monday holiday

(12) Birthday Holiday All regular full-time and part-time employees are authorized to view their birthday as a paid holiday. The employee shall notify the program director/supervisor if the employee is not able to take the day of the birthday off. This holiday shall contain the following provisions:

- (i) Birthday on Sunday – Monday holiday
- (ii) Birthday on Saturday – Friday Holiday
- (iii) Birthday on Monday – Friday – Birthday Day Only
- (iv) Birthday on Holiday observed by the Seminole Nation – Sole Discretion of the director/supervisor to allow appropriate time off for the holiday.

(B) Holidays occurring on Sunday, are observed the following Monday. Holidays occurring on Saturday are observed the preceding Friday. Employees in service positions which include weekend and holiday work, may exchange days taken for holidays if they worked on a recognized or declared holiday. Employees may claim compensatory time for work on a holiday.

[HISTORY: Enacted by Ordinance TO-2012-12, October 27, 2012;
Amended by TO- 2015-06, July 25, 2015]

Section 705. Holiday Pay

(A) Nonexempt employees will be paid double pay if required to work on a holiday. If a person does not work, he or she will receive eight (8) hours holiday pay at his or her regular rate.

(B) Exempt employees will be paid their regular salary on the holidays whether or not they work.

[HISTORY: Enacted by Ordinance TO-2012-12, October 27, 2012;
Amended by TO- 2015-06, July 25, 2015]

Section 706. Paid Time Off

(A) Paid Time Off. Eligible employees accrue paid time off (PTO) for each full week of service in which the employee is actively employed and in a paid status. No Paid Time Off may be taken in advance of being earned. PTO will not be accrued if employee has been suspended for disciplinary action or is on approved extended leave, other than annual/sick/comp leave.

(B) Any accrued hours of Paid Time Off over one hundred twenty (120) will be paid to the employee at the end of the fiscal year provided that the employee has used sixty (60) hours of annual leave during that fiscal year.

(C) Selection of leave dates is subject to approval of the employee's supervisor and must be made at least ten (10) working days prior to the start date when feasible, unless otherwise approved by the supervisor.

(D) Regular employees will retain leave upon transfer or promotion when allowable according to federal or state funding.

(E) Pay in lieu of unused annual leave may be provided as follows:

(1) For emergencies, which may include death in the family, urgent medical care of self or family, and when approved in advance by a member of the Executive Office. *The employee will need to submit the Annual Leave Cash Out form to the Executive Office for approval.* (Addendum December 3, 2009)

(2) Employees who terminate employment prior to completing their three month introductory period of employment are not eligible for payout of accrued PTO following termination.

[HISTORY: Enacted by Ordinance TO-2012-12, October 27, 2012;
Amended by TO- 2015-06, July 25, 2015]

Section 707. Sick Leave

(A) Sick leave is a privilege of paid time away from work where such absence is necessary because an employee is incapacitated by sickness, temporary disability, injury, or for medical, dental or optical examination or treatment; or where, by reason of exposure to a contagious disease would jeopardize the health of others.

- (1) Full-time employees shall accrue paid sick leave per pay period at a pre-determined rate.
- (2) No sick leave may be taken in advance of being earned.
- (3) Illnesses extending beyond accrued sick leave will be charged as annual leave, if available.
- (4) Sick leave may also be taken for illness in the employee's immediate family, or in the case of an FMLA event. Immediate family is defined as: parent, grandparent, sibling, child, step relations, and spouse or cohabitant.
- (5) Regular employees will retain all sick leave upon transfer or promotion or as allowable with applicable laws.
- (6) Eligible employees must promptly notify their supervisors whenever the use of sick leave becomes necessary.
- (7) A supervisor may require an employee to produce evidence (attending physician or medical provider's statement, death certificate, employee's affidavit, etc.) to substantiate the reason for or length of sick leave.
- (8) Employees will not be allowed to receive pay in excess of 40 total hours per week in which an employee is compensated for any form of leave is taken during that pay period.

(B) Medical Release as a Condition to Return to Work.

- (1) Employees are not allowed to return to work after an injury, disability or other serious health condition related absence of more than three (3) workdays, or where any absence is caused by a contagious condition of a threatening nature to others, without the written medical release of a qualified physician. The Nation reserves the right to have such employees examined by a paid physician of the Nation.

(C) Abuse of Disability Provision(s).

Employees who are found to have abused or fraudulently used temporary disability provisions will be subject to disciplinary action, including, but not limited to, termination.

[HISTORY: Enacted by Ordinance TO-2012-12, October 27, 2012;
Amended by TO- 2015-06, July 25, 2015]

Section 708. Transfer of Leave Time

(A) Employees may transfer leave hours to another employee within the same department and paid from the same funding source, which is eligible to use accrued leave hours. This policy does not apply to an employee who has given notice of resignation or an employee being separated because of lay-off or termination.

(B) To be eligible to receive these hours an employee must meet the following criteria:

- (1) Have exhausted all available leave hours.
- (2) Not receiving any other type of pay (i.e., Short Term Disability, Worker’s Compensation, etc).
- (3) Approval of his or her supervisor, where applicable.

(C) To be eligible to transfer hours, the donating employee must meet the following criteria:

- (1) Execute a voluntary option of consent with signature and a specific amount of hours donated/transferred.
- (2) Maintain a minimum balance of 24 hours in his or her respective donating leave account.
- (3) Approval of his or her supervisor, where applicable.
- (4) This policy is strictly voluntary and no employee shall be required to transfer accrued leave time.
- (5) In the event that an employee decides to transfer his/her accrued leave time, such leave time shall not be recovered and the employee will be eligible to utilize only hours that he/she has remaining and thereafter accumulates.
- (6) Any leave transferred that violates this policy shall result in the transferred leave being revoked from the receiving employee.

[HISTORY: Enacted by Ordinance TO-2012-12, October 27, 2012;
Amended by TO- 2015-06, July 25, 2015]

Section 709. Funeral Leave

(A) For the funeral of family relations, the following family relations will be recognized under this policy as blood relations (unless defined as step relations): Spouse, cohabitant,

children biological, adopted, foster and step parents, aunts, uncles, grandparents, siblings and grandchildren.

(B) All employees, including Initial Probationary employees, are eligible for paid funeral leave. One (1) day of unpaid leave will be allowed for attendance at funerals of extended family relatives or community members. An employee may use other earned or accrued leave if requested and approved by the employee's immediate supervisor. Funeral leave will be granted to employees for leave with pay for a maximum not to exceed four (4) calendar days (32 hours) following the death in the immediate family spouse, cohabitant, children (biological, adopted, foster and step), parents, siblings and grandchildren, grandparents and in-laws.

[HISTORY: Enacted by Ordinance TO-2012-12, October 27, 2012;
Amended by TO- 2015-06, July 25, 2015]

Section 710. Cultural Leave

(A) Enrolled members of the Seminole Nation, or other federally recognized tribes, may request time off to attend cultural and traditional events.

(B) The time off for Cultural Leave will be leave without pay, unless the employee requests annual leave.

(C) The employee must submit a Leave Application Form for time off at least fourteen (14) days in advance.

(D) The supervisor shall comply with this policy to accommodate requests for time off in compliance with this policy. Additional staffing and training necessary to support all Cultural Leave requests shall be made available in the event that multiple requests from the same work area may be accommodated "without causing disruption" of the business enterprises.

(E) If an employee schedules time off for a cultural event abuses and violates this policy by not attending the cultural event, then the employee shall not be eligible to request time off for a period of ninety (90) days. For a second similar violation of this policy, the employee shall not be eligible to request time off for a period of 180 days.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 711. Jury Duty and Witness Leave

(A) Jury Duty. Employees are to notify their supervisors promptly upon receipt of a jury summons and sub-sequent notice of selection to serve as a juror. An employee selected to provide this community service will receive his or her regular rate of pay for normal hours worked, up to a maximum of 10 workdays, provided the employee submits evidence of the summons and selection notice. Employees will be allowed to retain any mileage and other

compensation paid by the court. No employee will be subject to discrimination, harassment or retaliation for his/her jury service.

(B) Witness Duty. Employees will be paid leave for the time required to provide testimony in work related litigation or court proceedings. Employees are to notify their supervisor immediately upon receipt of a job related subpoena.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 712. Military Leave

(A) An employee who enters active duty in a branch of the U.S. Armed Forces or is a member of the Reserve Components of the U.S. Armed Forces who attends annual training, active duty for training, or is called to active duty will be granted military leave.

(1) To be entitled to military leave an employee must present official orders requiring attendance for a period of training or other active duty as a member of the Armed Forces.

(2) An employee may use accrued annual leave.

(B) Unpaid Military Leave - Unpaid military leave applies only to those employees who are eligible for paid supplemental military and decline to take either annual leave or paid supplemental military leave. It may only be used for 15 days or less

(C) Unpaid Military Leave of Absence - Unpaid military leave of absence will be granted to an employee for extended periods (beyond 15 days) of active duty supported by published official military orders. The following periods of active duty qualify for unpaid military leave of absence:

(1) An employee who is inducted into or enlists in an Active Component of the Armed Forces of the United States.

(2) An employee who is a member of the Reserve Components attending any of the following duty:

(i) Initial Entry Training (i.e., basic training). .

(ii) Active Duty for Training (i.e., military schooling).

(iii) Called to federal active duty by the President of the United States during a national emergency (i.e., mobilized).

(iv) Called to state active duty by the Governor during a state emergency.

(D) Employees returning to work are entitled to the same seniority, status, and pay they would have received had they not entered military service. Employees returning from military service may not be terminated from re-employment except for cause during their first year of re-employment.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 713. Educational Leave

(A) Employees may request leave with pay for no more than 24 hours per month for attending educational courses/classes.

(B) Requests for educational leave shall be made at least 30 days before class/course starting date. Tuition reimbursement is permissible where allowable by funding and granted at the discretion of the department Executive Director based upon factors including applicability of the course material, length of service and quality of performance and availability of funds. Reimbursement will be contingent upon successful completion of a class/course with grade point average of 2.0 or better and availability of Tribal/program educational funding included in the respective budget. Reimbursement is limited to tuition only and for only the classes/courses approved by employee supervisor. Reimbursement of educational costs will not exceed six (6) credits per semester or quarter of an academic year. All final grade transcripts will be provided before reimbursement is made.

(C) Professional Continuing Education Credits. All professional staff members are responsible to meet mandated Professional Continuing Education Credits. Reimbursable costs shall be all tuition, registration fees, textbooks, class supplies, time, travel, lodging and meals if applicable to retaining certifications required by that position.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 714. Administrative Leave

Administrative leave status or normal work curtailment may be granted to employees by the Executive Office. Administrative Leave may be used for inclement weather conditions, hazardous working conditions, voting purposes, blood drives and other exceptional circumstances. Administrative Leave is considered paid leave unless otherwise specified by the Executive Office.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 715. Family Medical Leave

(A) The Seminole Nation will provide up to twelve (12) weeks of unpaid, job-protected leave referred as Family Medical Leave (FML) for “eligible” employees to attend to

certain family medical matters. All FML requests must be submitted to and approved by the Human Resources Department.

(B) To be eligible for FML, the employee must have worked for the Nation for at least twelve (12) months and have worked at least 1,250 hours during that twelve (12) month period.

(C) If an employee does not meet the eligibility criteria noted above, the FML pending window can close sooner than the usual 15-day pending period

(D) If an employee and supervisor fail to notify the Human Resources Department that an employee is past FML pending stage and has not been approved FML use, disciplinary action, including termination, can occur. FML paperwork must be turned in by the due date specified or FML may be denied by the Nation.

(E) Leave Schedule

(1) FML permits the employee to take either full-time off or intermittent leave (in one hour increments). Upon request for FML, schedule of time off must be stated, or otherwise, the employee will be reported as using full-time FML.

(2) An employee may change his or her FML schedule when medical improvements occur; provided that the HR Department is notified prior to the schedule change.

(3) An Intermittent/Reduced Schedule is permitted when such schedule does not unduly disrupt the Nation's operations and when either of the following circumstances occurs:

(i) When medically necessary to care for a seriously ill family member with a foreseeable medical treatment schedule is established for the employee.

(ii) When an employee with a serious medical condition is medically released by the transfer the employee temporarily to an alternative job with equivalent pay and benefits that better accommodate the employee's recurring periods of leave.

(iii) To care for a newborn or newly placed adopted or foster care child, as approved by the employer.

(F) An employee who fails to keep the HR Department and his or her supervisor current on his or her medical status while on FML may be denied possible extensions of any leave time.

(G) An employee who fails to report promptly for work at the expiration of the FML will be considered to have voluntarily resigned with the exception of an employee with a Worker's Compensation claim.

(H) The FML must run concurrently with any Short Term Disability, annual leave, sick leave, Worker's Compensation and/or an unpaid Leave of Absence as applicable.

(I) Leave Entitlements

(1) Such leave entitlements shall not include ailments that do not constitute "serious health conditions" as described in paragraph (c), below. This includes, but is not limited to, general work related stress, common colds, earaches, the flu, headaches other than migraines, upset stomach, minor ulcers, routine dental, orthodontic or periodontal problems.

(2) Leave entitlements do include the following reasons: the birth of a child, and to care for the newborn child; placement with the employee of a child for adoption or foster care, and care for the newly placed child; care for an immediate family member (spouse, child, or parent-but not a parent-in-law) with a serious health condition; and when the employee is unable to work because of a serious health condition..

(J) Maintenance of Health Benefits

The Nation shall maintain group health insurance coverage, including family coverage for an employee on the Nation's FML. During the leave, the Nation will pay both the employer's and employee's premium during the week(s) the employee does not receive a payment from the Nation. The maintenance of the health benefits stops if and when an employee informs the Nation of intentions not to return to work at the end of the leave period, or if the employee fails to return to work when the leave entitlement is exhausted. The employee will be required to reimburse the Nation for any voluntary premiums paid by the Nation during the absence upon the employee's return to work.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 716. Unpaid Leave of Absence

(A) An employee with more than twelve (12) months of continuous services full time service may be eligible for an Unpaid Leave of Absence for a period not to exceed three (3) months. All requests must be approved by the Human Resources Department and the Executive Office. An Unpaid Leave of Absence may be granted for the following reasons:

(1) Continued illness or personal reasons, which extend in time beyond available annual, sick, or FML. During an Unpaid Leave of Absence for medical reasons, health benefits will continue for up to ninety (90) days;

(2) Advanced training, higher education, or research, which will increase employability and job skills that are in the best interests of the Seminole Nation. Employees will be responsible for maintaining or discontinuing any employment related discretionary insurance benefits with the Nation.

(3) Upon expiration of the Unpaid Leave of Absence, the employee shall be reinstated in the position held at the time this leave was granted. An employee who fails to promptly report to work at the expiration of such leave will be considered to have voluntarily resigned.

(4) Under no circumstances will Departments be allowed to announce the position and hire a probationary employee; as if there were an official vacancy.

(5) Credit for paid time off and sick leave will not accrue during an approved unpaid leave of absence.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

CHAPTER EIGHT
WORK RULES, EMPLOYEE CONDUCT, DISCIPLINE,
AND ADMINISTRATIVE REVIEW

Section 801. General Hours of Work and Attendance

(A) Due to the varying nature of Tribal business and service needs, no single work schedule can be established for all employees. Directors, upon consultation with supervisory personnel will determine operational days and hours of work, or the modification thereof. General working times for Administration and Programs are Monday-Friday, 8:00 a.m. to 5:00 p.m., unless altered or approved by the Executive Office.

(B) Work schedules will be established for each employee by supervisory personnel who may change schedules based on the needs and requirements of work until operations. Supervisory personnel may also require an employee to work an unscheduled day and the day worked shall be treated as modified work schedule and not be subject to overtimes compensation. Flex time scheduling may be approved by the Executive Office on a case by case basis.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 802. Attendance

(A) Employees are required to report to their designated work locations and clock in/out at the prescribed time and manner work is to commence. Tardiness, unexcused absence or failure to report absence as required may result in disciplinary action.

(B) In the event an employee cannot report to work as scheduled, the employee must notify supervisory personnel at least thirty (30) minutes prior to the scheduled work shift.

(C) In all cases of an employee's absence or tardiness, the employee shall provide supervisory personnel with a valid reason for the absence and, if applicable, the probable duration of absence.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 803. Excessive Absenteeism.

Excessive absenteeism, which renders an employee unavailable for work will be evaluated on a case-by-case basis to determine the merits of disciplinary action or termination.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 804. Abandonment of Employment.

An employee who is absent from his or her assigned work location without authorized leave for three (3) consecutive days shall be considered absent without authorized leave, and as having abandoned his or her employment. The employee shall be automatically terminated, unless the employee can provide the Nation with acceptable and verifiable evidence of extenuating circumstances justifying the absence(s).

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 805. Personal Appearance/Clothing Attire

(A) Every employee contributes to the overall public image of the tribe and its workforce during working hours. Appropriate attire enhances an employee's effectiveness in providing superior service. Each employee personally represents the tribe and is required to dress and groom in a manner appropriate for his/her work area. Blue jeans are strictly prohibited unless required by position or approved by the Executive Office for "casual day"

(1) Employee Badges: Badges should be visible at all times. Name tags may not be worn outside the workplace.

(2) Personal Hygiene: Employees must practice good personal hygiene at all times and should not wear deodorants, perfumes or aftershaves in excessive amounts that may be offensive to guests or co-workers.

(3) Business Attire: Employees are expected to wear "casual business attire".

(i) This includes slacks, collared shirts or dress shirts with a tie, for male employees, unless employed in specified positions which would require blue jeans and/or uniforms.

(ii) A dress collared "polo shirt" is also acceptable if worn with khaki or dress slacks. Female employees are expected to wear slacks, skirts, blouses, dresses and/or jackets.

(iii) Camisoles and other tops that show cleavage or midriffs are not permitted.

(iv) Shoes should be appropriate to the work environment, and some areas may prohibit open-toe shoes for reasons of safety. Flip flops or thong type sandals should not be worn.

(v) Under normal business/clerical operations blue jeans are not allowed, unless specified for "Employee Casual Day" or Employee Event team fundraisers. Tee shirts are not allowed, unless specified for a certain program

event.

(4) The employee's immediate supervisor monitors adherence to the dress code. If an employee reports to work dressed or groomed inappropriately, the immediate supervisor is responsible for sending the employee home to change and the employee will not be compensated for that time.

(B) If abuse of the personal appearance policy continues, the employee's immediate supervisor may use corrective action as appropriate, up to and including termination, after consultation with the HR Department.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 806. Employee Conduct

(A) Employees are responsible and accountable for adhering to all Tribal laws, policies, rules, directives, and procedures enacted and established by the Nation.

(B) Employees who engage in, or are associated with illegal or criminal conduct, the nature which adversely affects the Seminole Nation, or their ability to carry out their employment responsibilities, will be subject to disciplinary action, including termination.

(C) Information about the Seminole Nation, its customers, clients, suppliers, or employees shall not be disclosed or divulged to anyone other than persons who have a right to know, or are authorized to receive such information.

(D) The Nation reserves the right to deny services and entry onto the Nation's property to members of the public, visitors, and employees who are physically and/or verbally abusive or disruptive of services and operations. The Nation additionally reserves the right to deny entry onto Tribal properties or access to services to all employees and/or members of the public whom they determine may be under the influence of alcohol, controlled substances, and/or illegal drugs.

(E) Unacceptable Conduct. The following non-exhaustive list of employee acts, activities and behavior constitute unacceptable conduct:

(1) Improper or unauthorized use of paid or unpaid leave.

(2) Being absent without authorized leave or repeated unauthorized late arrival or early departure from work.

(3) Willful or negligent violation of the ERC, Seminole Nation law, unit operating rules, or related directives.

(4) Refusal to accept reasonable and proper assignments or failure to carry out a direct order from a superior, except where the order is illegal or the employee's safety may reasonably be jeopardized by the order.

(5) Soliciting or accepting gifts or compensation in exchange for influence, contracts, access to information, people or facilities.

(6) Engaging in a conflict of interest activity.

(7) Conduct that discredits the employee or the Nation, or willful misrepresentation of the Nation. An employee may not present himself or herself as a representative of the Nation, or communicate with the news media on behalf of the Seminole Nation unless authorized or directed in writing by the Seminole Nation or its delegated representative(s).

(8) Conviction of a crime during employment, including convictions based on a plea of *nolo contendere* or involving moral turpitude, the nature of which reflects the possibility of serious consequences related to the continued assignment or employment of the employee. Failure to report a criminal charge or a conviction to the HR Department may result in disciplinary action up to and including termination.

(9) Knowingly falsifying, removing, or the destruction of information related to employment, payroll, or work related records or reports.

(10) Soliciting outside work for personal gain during business hours; engaging in off-duty employment for any business under contract with the Seminole Nation; participating in any off-duty employment that adversely affects the employee's performance of work for the Nation; and engaging in unauthorized off-duty employment.

(11) Conduct that interferes with the management of Tribal operations.

(12) Violation of or neglecting safety rules, or contributing to hazardous conditions.

(13) Unauthorized removal, negligent, or improper use of any Tribal property, equipment, or funds or that of its clients, customers, or agents. This includes the private use, use that creates an unreasonable risk of damage to property, theft, embezzlement or conversion for personal use of Tribal funds or property.

(14) Physical altercations or creating a disturbance among fellow employees that would result in an adverse effect on morale, productivity, and/or the maintenance of proper discipline, i.e. wrestling, rough housing, and horse play.

(15) Making false, malicious, or unfounded statements against co-workers, supervisors, subordinates, government officials, or the Seminole Nation, which tend to damage the reputation or undermine the authority of the Seminole Nation.

(16) Conducting personal business during work time.

(17) Inefficiency, incompetency, or negligence in the performance of duties, including failure to perform assigned tasks or training, sleeping on the job or failure to discharge duties in a prompt, competent, and reasonable manner.

(18) Refusal or inability to improve job performance in accordance with written or verbal direction after a reasonable trial period, not to exceed thirty (30) days, which is specified in writing.

(19) Employees may not engage in coercion, nor be subject to coercive tactics that constitute a deprivation of legally protected rights.

(20) Offering or accepting political rewards as consideration for the political support of any party or candidate for public or Tribal office. Upon proof of such reward, disciplinary action will be taken, which may result in termination or removal.

(21) Driving under the influence of alcohol or drugs while on duty or the suspension of driver's license where job duties require driving.

(22) Bringing infants or other dependants to work for the purposes of providing them care and supervision, except in the following circumstances:

(i) To accommodate a mother's right to breast-feed an infant during her break periods, provided that a minimum amount of disruption in office functions occurs.

(ii) To accommodate an employee who works at any of the Nation's facilities where daycare, recreation, or other supervision is provided for infants or dependent children, provided that the employee's work is not disrupted.

(iii) In all cases, an employee must request approval of his or her supervisor in order to bring a child to his or her workplace under the above circumstances.

(23) Use of office telephones/cell phones or electronic devices for personal purposes. Personal calls shall be kept to a minimum and long distance calls shall be reimbursed.

(24) Participating in, planning, or assisting in any illegal or unlawful activity, which affects the day-to-day operations of the Seminole Nation.

(25) Unauthorized release of confidential information or official records.

(26) Misuse of authority or position for personal gain.

(27) Any other actions considered by the Nation in its sole discretion to be inappropriate, or detrimental to employee working environment.

(28) Taking employee personnel matters to any public forum.

(29) Possession of dangerous or unauthorized materials including weapons, ammunition, explosives, or firearms while on Seminole Nation property.

(30) Discourtesy to clients, customers or other employees.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 807. Employee Discipline.

(A) Employment with the Seminole Nation is at-will and each case involving discipline will be handled on a case by case basis. All Directors/Supervisors are required to consult with the HR Director prior to imposing discipline. All staff receiving discipline shall be afforded Due Process.

(B) Types of discipline may include:

(1) Suspension.

(i) Under no circumstances will a suspension exceed ten (10) working days.

(ii) It may be necessary to restrict an employee immediately from performing duties at the work site. These circumstances usually involve potential danger to the assets of the Nation, the employee, co-workers or the public, or the employee's inability to discharge assigned duties satisfactorily. In these situations, the issue is to be evaluated on a case by case basis and the following procedure is to be followed:

(C) Prior to an employee being suspended, the supervisor taking the action to suspend an employee will immediately notify the HR Director and prepare a written statement of action taken and the reasons for such action.

(D) The Supervisor will prepare, together with the HR Director, the statement of charges and document any supporting evidence.

(E) As soon as possible after the initial action, the HR Director will prepare written notification to the affected employee.

(F) In no event will the use of paid time be allowed during a period of suspension without pay. Should a paid holiday occur during a period of suspension without pay, the

suspension period shall be extended by the number of holidays occurring during the suspension period.

(G) All suspensions shall be unpaid. No employee may be disciplined by issuance of a suspension with pay.

(H) A suspended employee who has been vindicated of any wrongdoing shall be compensated for lost wages and benefits.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 808. Termination

Directors/Supervisors shall notify the HR Department of all personnel issues and disciplinary actions, including recommendations for terminations prior to taking any such disciplinary action.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 809. Internal Dispute Resolution Policy

(A) An appropriate issue for Internal Dispute Resolution is defined as an employee's expressed dissatisfaction concerning any interpretation or application of a work-related policy by management, supervisors, or other employees. Examples of issues which may be considered appropriate under this policy include but are not limited to:

(B) In an effort to provide employees with a method to resolve conflict within the workplace, the Seminole Nation has elected to implement this Dispute Resolution prior to and, in some cases, in lieu of the grievance process. It is the policy of the Seminole Nation to afford all eligible employees who have been subject to discrimination or harassment a means of having the circumstances of such action reviewed by an impartial and objective mediator. The HR Director will take all reasonable steps to investigate all complaints. The HR Director will conduct mediations by facilitating discussions between parties requesting the assistance of the HR Director in resolving their disputes in accordance with the HR Department's rules and procedures for mediation.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 810. Grievances

(A) Employees may seek administrative review only for alleged discrimination, work related issues and harassment. The Seminole Nation Personnel Board's purpose is to hear employment related issues, known as grievances, in order to efficiently resolve such actions.

(B) The HR Director will take all reasonable steps to investigate any incident, which has resulted in disciplinary action. As Seminole Nation is an employer at will, all eligible employees who have been subject to suspension or termination cannot grieve their termination.

(C) Initial Probationary or temporary employees may not grieve on any matters, save those listed in paragraph A, above.

(D) Performance Evaluations may not be grieved, and may not be reviewed under the administrative review process.

(E) Employees are entitled to grieve all matters, except termination, to the Personnel Board, if not resolved in the Internal Dispute Resolution process.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 811. Notification of Disciplinary Action

(A) At the time an employee is notified of disciplinary action, the employee shall be advised of his or her right to a hearing before the Seminole Nation Personnel Board.

(B) Request for a Hearing. An employee must request a hearing within five (5) business days of the date the disciplinary action was taken. At the time the employee requests a hearing, he or she must inform the HR Department if he or she is to be represented by an attorney. If so, the attorney must also file for an appearance with Department of Human Resources within five (5) days of the date the employee requested a hearing. Failure to request the hearing within this time frame will result in the forfeiture of a hearing by the Board.

(C) Any reference to improper or overturned disciplinary action may be removed from the employee's personnel file, or notice that such disciplinary action was overturned will be clearly noted on the record of such action such that it cannot be used in progressive discipline or be otherwise held against the employee for future references.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 812. Smoking Policy

(A) It is the policy of the Nation to voluntarily comply with all applicable federal and local regulations regarding smoking in the workplace and to provide a work environment that promotes productivity and the well-being of all its employees.

(B) The employer recognizes that smoking in the work place can adversely affect employees. Accordingly, smoking is restricted at all of its facilities, except where designated as a smoking area within 50 feet of any entrance.

(C) The Human Resources Department is responsible for implementing smoking regulations, and supervisors are expected to monitor and enforce such regulations.

(D) Employees are expected to exercise common courtesy and to respect the needs and sensitivities of coworkers. Smokers have a special obligation to keep designated smoking areas litter-free and not to abuse break and work rules. Complaints about smoking issues should be resolved at the lowest level possible, but may be processed through the employer's grievance procedures. Employees who violate the policy will be subject to disciplinary action.

(E) The employer, however, will not discriminate against individuals on the basis of their use of legal products, such as tobacco.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

Section 813. Participation in Community Affairs

(A) It is the policy of the employer to encourage employees to participate in the community service affairs of charitable, educational, religious, fraternal, and civic organizations.

(B) Employee participation in community activities must not adversely affect the employee's job performance, be detrimental to the employer's interests, or place the employee in the position of serving conflicting interests.

(C) Time spent on community affairs, when not undertaken at the request of management, should normally be outside of the employee's regular working hours and, therefore, will not be considered hours of work for pay purposes.

(D) The employer may identify certain community activities in which it wants to be represented, and then designate the employees it will sponsor for participation or membership in such organizations. Employees so designated will represent the employer in the organization and will be expected to promote the employer's interests. Under these circumstances, time spent on the community activity will be considered hours worked for pay purposes.

(E) Employee-initiated participation in community affairs that involves an extended period of time away from the job should be handled in accordance with the provisions contained in the "Leaves of Absence" section.

(F) Employees have a responsibility, when expressing opinions in a public forum, to make clear whether the opinion is a personal one or one representing the employer. The Principal Chief or authorized designee must approve, in advance, any public communication that might be considered as representing the employer's position on an issue. Employees are not to engage in discussions concerning band meetings, or any other political topics or to discuss internal confidential affairs in any public forum.

(H) Employees planning to campaign for, seek, or accept appointment to public office must give prior notice of their intentions to their immediate Supervisor and the Human Resources Department. The Human Resources Department will review with the employee the employer's continuing requirements to avoid conflicts of interest and to maintain satisfactory attendance, effort, and performance standards. Employees engaging in political activities must do so as individuals on their own time, not as representatives of the employer, and may make no representations otherwise.

[HISTORY: Enacted by TO- 2015-06, July 25, 2015]

MOTOR VEHICLE OPERATION POLICY

Section 814. Purpose.

This Motor Vehicle Operation Policy (Policy) is to establish clear responsibilities for employees, supervisors, and managers, and to promote the safe and prudent operations of motor vehicles while performing assigned duties in support of the Tribe.

[HISTORY: Enacted by Ordinance TO-2008-08, April 8, 2008;
Renumbered by TO- 2015-06, July 25, 2015]

Section 815. Definitions.

(A) “Employee” means any permanent, temporary, intermittent, or contract employee.

(C) “Motor Vehicle” means any motor vehicle owned, rented, or leased by the Nation, or privately owned, rented or leased, with a gross vehicle weight (GVW) of less than twenty-six thousand (26,000) pounds, designed to transport less than fifteen (15) people, and which does not haul hazardous materials or tow vehicles with a GVW of ten thousand (10,000) pounds or more (e.g. sedans, light trucks, sports utility vehicles (SUVs) and all terrain vehicles (ATVs)).

(C) “Motor Vehicle Operator” means an employee who drives a motor vehicle, including commercial motor vehicles, in the performance of their duties and responsibilities.

(D) “Commercial Operator” means an employee who operates a commercial vehicle and is required to possess a Commercial Driver’s License (CDL).

(E) “Commercial Motor Vehicle” a vehicle having a GVW rating of more than twenty-six thousand (26,000) pounds, a vehicle towing a trailer weighing 10,000 pounds or more, a vehicle hauling hazardous material which requires display signs noting the hazardous material content of the vehicle, a vehicle designed to transport fifteen (15) or more people including the driver, or a school bus. Operators of these vehicles must have a valid CDL.

[HISTORY: Enacted by Ordinance TO-2008-08, April 8, 2008;
Renumbered by TO- 2015-06, July 25, 2015]

Section 816. Driver Qualifications.

(A) An Employee with a valid employee ID card may be authorized to drive on Tribal business if he or she satisfies the following requirements:

(1) is eighteen (18) years of age or older;

- (2) possesses a valid State driver's license;
- (3) possesses the requisite experience needed to drive the type of vehicle being assigned or used.
- (4) has received no convictions or uncontested citations within the three-year period immediately preceding their submittal of the Seminole Nation Driving Request Form, Motor Vehicle Operator's License and Driving Record, for Reckless Driving, Driving While Intoxicated (DWI), Driving Under the Influence (DUI) or Leaving the Scene of an Accident.
- (5) has not demonstrated a pattern of unsafe driving or behaviors (e.g. drug or alcohol abuse, unusual aggression, etc.) that would cause a supervisor to question the likelihood that the individual will drive safely and prudently while on Tribal business.
- (6) possesses current Motor Vehicle Operators Authorization from his/her supervisor.
- (7) consents to no usage of a cellular phone while operating a motor vehicle.

[HISTORY: Enacted by Ordinance TO-2008-08, April 8, 2008;
Renumbered by TO- 2015-06, July 25, 2015]

Section 817. Roles and Responsibilities.

(A) Chief of Staff, Program Directors, Supervisory Staff, and Program Managers are responsible for carrying out the requirements of this policy within their areas of responsibility.

(B) Managers, supervisors, and Program Directors must:

(1) Carefully consider whether duties and responsibilities assigned to an employee require the operation of a Tribe-owned or Tribe-leased motor vehicle, commercial motor vehicle, rental motor vehicle, or privately-owned or privately- leased motor vehicle in the performance of official or contractual duties, responsibilities or activities, including duties of record and other duties assigned or historically assigned to such positions or activities.

(2) Ensure that each Tribal Motor Vehicle Operator under their supervision possesses a valid driver's license that indicates State authorization to operate the class of vehicle required in the performance of duties. This responsibility is met by ensuring each employee completes the annual Authorization Process described in Section 7 of this Policy, which includes a requirement to conduct an annual review of the employee's current license and a current motor vehicle driving record. If at any time the supervisor has a concern with an employee's driving record, he or she will initiate a review of the

employee's driving record. Failure to meet this responsibility may result in disciplinary action against the supervisor.

(3) Ensure that all term contracts and commercial contracts under their administration, at the time of contract renewal, include certification from the contractors certifying that they will self-administer and ensure compliance with the requirements of this policy.

(4) Based on available information, ensure no authorization is given to individuals with restricted driving privileges (i.e., home to work licenses).

(5) Ensure that no Motor Vehicle Operator is permitted to operate a Tribe owned or leased motor vehicle, commercial motor vehicle, rental motor vehicle and/or privately owned or leased motor vehicle in the performance of official duties while:

(i) intoxicated by ingesting controlled substances or consuming intoxicating beverages, including any impairment resulting from the use of prescription or over-the-counter drugs; or

(ii) impaired by a medical or physical condition, (c) uses a cell phone while operating the motor vehicle, or other factor that affects his/her motor skills, reaction time, or concentration.

(6) Immediately terminate driving privileges for a Motor Vehicle Operator who is:

(i) Arrested for, charged with, or convicted of Reckless Driving, Driving While Intoxicated (DWI), or Driving Under the Influence (DUI).

(ii) Arrested for, charged with, or convicted of a criminal offense related to a traffic incident involving alcohol or drugs, including but not limited to vehicular homicide, vehicular manslaughter, or endangerment.

(iii) Disqualified from holding a State driver's license, including restriction, suspension, revocation, or cancellation of a State driver's license for the type and class of vehicle operated.

(iv) Upon request, fails to provide a valid CDL medical certificate.

(v) Loaning of the vehicle to an employee or a non-employee who is not eligible for driving privileges.

(vi) Uses a cellular phone while the motor vehicle is in operation.

(C) Supervisory Staff will take appropriate action when a Motor Vehicle Operator:

(1) Is convicted for operating a motor vehicle under the intoxicating influence of alcohol, narcotics, or pathogenic drugs.

(2) Is convicted of leaving the scene of an accident without making his or her identity known.

(3) Is not qualified to operate a Tribe owned or leased vehicle safely because of a physical or medical condition.

(4) No longer possesses a State license by revocation or suspension.

(5) Fails to report incidences noted in paragraph 6 above to his or her supervisor.

(6) Exhibits behaviors inconsistent with the safe and prudent operation of a motor vehicle.

(7) Where appropriate, recommend the Alcohol & Substance Abuse Program (ASAP) and other programs to employees whose performance appears impaired by the use of controlled substances, prescription drugs, or intoxicating beverages.

(8) Take appropriate actions to investigate allegations of employee's alcohol or drug abuse problem or a history of unsafe driving, regardless of whether or not the employee has ever been charged with an offense. Supervisors may at their discretion, consider a pattern of unsafe driving acts as a factor in determining whether an employee meets driver qualifications. (For example, an employee is convicted of DWI or other unsafe driving practices over a 10 year period, with DWI arrest longer than three-years preceding their submittal of a Seminole Nation Driving Request Form, Motor Vehicle Operator's License and Driving Record).

(D) Employees, generally, have responsibility to inform supervisors of operator incidences or behaviors that would be considered covered by this policy or represent unsafe driving behavior. All employees share an affirmative duty to ensure our vehicles are used properly by responsible individuals who have a high regard for both personal and public safety while operating a Tribal vehicle.

[HISTORY: Enacted by Ordinance TO-2008-08, April 8, 2008;
Renumbered by TO- 2015-06, July 25, 2015]

Section 818. Operator Requirements.

(A) Motor Vehicle Operators must:

(1) Comply with State, local and tribal traffic laws and the lawful instruction of emergency and law enforcement personnel.

(2) Abstain from ingesting controlled substances, intoxicating beverages, prescription drugs or other medications that caution against operating a motor vehicle when taken, to avoid being impaired.

(3) Not transport intoxicating beverages, controlled substances, or any passenger who is in possession of intoxicating beverages or controlled substances without written approval of immediate supervisor. Exceptions to this prohibition are allowed for social services, emergency, and law enforcement personnel whose duties and responsibilities require otherwise.

(4) Not transport unauthorized passengers in a Tribe owned or leased motor vehicle.

(5) Report to his/her supervisor any medical or physical condition, including the use of controlled substances, prescription or over-the-counter drugs, which may impair the driver from the safe operation of a motor vehicle.

(6) Successfully complete motor vehicle safety training at least ever three years.

(7) Notify their supervisor if their State driving privileges are restricted, suspended, revoked, or canceled, or if they have been otherwise disqualified from holding a license. Employees are also responsible for reporting any situation that may alter their authorization or ability to operate a motor vehicle, such as any legal or court ordered suspension of driving privileges or any limiting medical conditions.

(8) Report all incidents involving a Tribe owned or leased motor vehicle, commercial motor vehicle, rental motor vehicle, or a privately owned or leased motor vehicle that occur during the performance of their official duties.

(9) Report all on-duty incidents involving a Tribe owned or leased motor vehicle, commercial motor vehicle, rental motor vehicle, or a privately owned or leased motor vehicle that could result in a violation, citation, charge, arrest, warrant, or civil action.

(10) Report all incidents involving a Tribe owned or leased motor vehicle, commercial motor vehicle, rental motor vehicle, or privately owned or leased motor vehicle and the use of controlled substances or intoxicating beverages; impairment resulting from prescription or over-the-counter drugs, illness, or medical condition; or other factors that impair concentration, motor skills or reaction time.

(11) Report any restriction, suspension, revocation, or cancellation of their driver's license, for any length of time, or any disqualification from holding a State, commercial, or international operator's license.

(12) Notify supervisors of these incidents no later than the following business day after their occurrence. Failure to inform the supervisor of any such situation may subject employees to disciplinary action.

[HISTORY: Enacted by Ordinance TO-2008-08, April 8, 2008;
Renumbered by TO- 2015-06, July 25, 2015]

Section 819. Authorization Procedures.

(A) All employees and term contract employees whose job requires operation of a motor vehicle must annually request authorization to operate a motor vehicle in carrying out the duties of their positions.

(B) All employees and term contract employees must annually submit to their supervisor a Seminole Nation Driving Request Form, Motor Vehicle Operator's License and Driving Record to renewal. In completing the form, individuals will provide a response to all questions (Section II) and certify that their statements are true and correct to the best of their knowledge (Section III).

(C) Supervisors will review the Driving Request Form for accuracy and completeness, complete and sign Section IV – Supervisory Review, and forward to the appropriate safety office for the receipt of application.

(D) The appropriate safety office will review the submitted forms and request a copy of the applicant's driving record from the appropriate State motor vehicle office(s) and if appropriate and where feasible, the tribal court where employees primarily operate motor vehicles within that tribal jurisdiction.

(E) Upon a receipt of a favorable review of the driving record, the safety officer will complete Section V – Certification of Eligibility and Authorization, sign and date, certifying that the individual meets Tribal driver qualifications.

(F) Supervisors are reminded that they may be personally liable if they authorized an employee to operate a motor vehicle on Tribal business if an employee is determined not to be qualified by virtue of failing to meet qualification standards.

[HISTORY: Enacted by Ordinance TO-2008-08, April 8, 2008;
Renumbered by TO- 2015-06, July 25, 2015]

Section 820. Failure to Report Incidents Involving Motor Vehicles.

Failure of the motor vehicle operator to report such incidents of traffic citations or accident violations to the supervisor as soon as possible after the occurrence, but no later than the next business day may result in disciplinary or other adverse action.

[HISTORY: Enacted by Ordinance TO-2008-08, April 8, 2008;
Renumbered by TO- 2015-06, July 25, 2015]

Section 821.Motor Vehicle Operation Policy Guidance.

(A) All positions must include a determination, in consultation with the appropriate Human Resources Office, of whether the incumbent of the position will be required to have a valid driver's license, possibly with endorsements, because of the requirement that they regularly operate Tribal vehicles or equipment to perform the duties of the position they encumber. Alternately, certain positions that may require occasional driving, but not regular driving must be designated as such. The following conditions apply to positions that require regular driving and the position descriptions for these positions must incorporate these requirements:

(1) Applicants for such positions cannot be officially hired until it is determined that their driving record would not preclude their driving of Tribal vehicles. This shall be based on a review of an applicant's driving record; the applicant will provide an original abstract or document evidencing their current driving record from their state of residence for which the applicant is responsible for the cost.

(2) Incumbents of such positions who cannot be authorized to drive because of a conviction for an offense listed in Section III. B. 6. of the Policy, cannot remain in the position they encumber and necessary corrective action must be taken to resolve the employee's inability to drive. The determination of the appropriate corrective action shall be made in consultation with the Human Resources Office.

(3) The driving privileges of incumbents of such positions arrested for an offense listed in Section III. B. 6 shall have their driving privileges immediately terminated.

(B) Reckless driving convictions or arrests resulting from a drug or alcohol related offense require compliance with the wording of the Policy in Section III. B. 6. Reckless driving offenses unrelated to drugs or alcohol will be considered as not requiring mandatory termination of driving privileges, but under the standard of whether or not the supervisor determines the employee is an unsafe driver based upon the employee's driving or criminal record for the 10-years preceding submittal of the Driving Request Form, that would cause a supervisor to question the employee's ability for safe and prudent driving while on Tribal business.

(C) If a Motor Vehicle Operator's driving privileges are terminated upon a DUI charge pending conviction and if the Operator cannot perform required job duties without driving, the employee may be temporarily accommodated, if practical, through:

(D) Temporary revision of job duties (A revision of job duties will be deemed practical if the employee can perform the majority of job duties without driving).

(E) A temporary re-assignment to an available position that does not require driving (a determination of practicability for re-assignment will be whether or not the employee meets minimum qualifications for re-assignment to an available position).

(F) Administrative leave only if a revision of job duties or a re-assignment is not practical due to a concern that the employee would potentially cause harm to Tribal equipment, records or other individuals.

(G) An indefinite suspension of the employee if the charge could result in the employee facing imprisonment (incarceration in a State, Federal or Tribal facility for any length of time).

(H) A reasonable time frame for a temporary revision of duties, re-assignment, administrative leave or suspension period is 120 days. If the charge causing the termination of driving privileges is not resolved within 120 days, the employee's supervisor will consult with the Human Resources Office to initiate corrective action.

(I) Upon a final conviction of an employee that must drive to perform job duties and therefore no longer meets the requirements of the position the employee permanently encumbers, the supervisor will commence taking corrective action by contacting their servicing Human Resources Office.

(J) If the charge is defeated, the employee will be reinstated to original position with driving privileges restored, provided the employee does not have other arrests or convictions that would preclude them from being authorized to drive. If the employee had been on an indefinite suspension, the employee will not be compensated for wages lost. (Practice as supported by case history is someone on indefinite suspension does not get back pay if returned to duty.)

(K) No supervisor may authorize/allow an employee to drive/operate any Tribal vehicle without the written concurrence of the appropriate Safety Officer.

(L) The Policy requires managers and supervisors to "ensure that all term contracts and commercial contracts under their administration, at the time of contract renewal, include certification from the contractors certifying that they will self-administer and ensure compliance with the requirements of this policy." For P.L. 638 Contacts and Self-governance compacts, the Policy does not apply unless the contract includes a provision mandating compliance with the Policy.

(M) While a Tribal Court has no ability to revoke a State issued driver's license, all employees are required to report all driving related charges and/or convictions in Tribal Courts on the Driving Request Form. The appropriate safety office will review the submitted forms and request the applicant's driving record from the appropriate State motor vehicle office and appropriate Tribal Court. If the Tribal court refuses to provide the applicant's driving record to the safety office, the safety office will request that the employee/applicant submit a written request to the appropriate Tribal court within 10 days of the safety office's request. The

employee/applicant must provide a copy of the written request to the safety office also with 10 days. A failure or inability to obtain actual court records will not preclude taking corrective action for an arrest or conviction, an employee's report of such an offense is sufficient to proceed with corrective action.

(N) The Policy mandates that managers and supervisor must:

(1) Carefully consider whether driving is necessary for all positions and amend position descriptions accordingly.

(2) Ensure that each Tribal Motor Vehicle Operator meets requirements for authorization while on Tribal business.

(3) Conduct annual review of the employee's current license and current motor vehicle driving record.

(4) Enforce the Policy.

(O) Any manager or supervisor who fails to comply with the requirements and enforcement provisions of this Policy will be subject to disciplinary action or adverse action.

(P) The following reporting requirement for all supervisors is immediately imposed; supervisors will report within one business day, through their chain of command, any and all arrests or convictions of a subordinate employee that impacts; their ability to operate a Tribal vehicle. Each Program Director will maintain an active listing of affected employees, which shall be readily available, with a current updated status.

[HISTORY: Enacted by Ordinance TO-2008-08, April 8, 2008;
Renumbered by TO- 2015-06, July 25, 2015]

CHAPTER NINE **TRAVEL POLICY**

Section 901. Purpose.

The purpose of this Chapter is to establish general travel policies for the Seminole Nation of Oklahoma. These general policies provide overall direction for the development of detailed financial management and reporting requirements for travel on official business of the Seminole Nation.

[HISTORY: Enacted by Ordinance No. 2013-11;
Renumbered by TO- 2015-06, July 25, 2015]

Section 902. Applicability.

This Chapter applies to every entity of the Seminole Nation except for business enterprises established under Title 8 of the Seminole Nation Code of Laws.

[HISTORY: Enacted by Ordinance No. 2013-11;
Renumbered by TO- 2015-06, July 25, 2015]

Section 903. References to Other Law.

- (A) The policies are based on the following as they apply:
- (1) Seminole Nation of Oklahoma Code of Laws Title 14, Section 204(b)(2)
 - (2) 5 U.S.C. §§ 5701-5711, Travel and Subsistence Expenses; Mileage Allowances
 - (3) 41 CFR 300-304, Federal Travel Regulation

[HISTORY: Enacted by Ordinance No. 2013-11;
Renumbered by TO- 2015-06, July 25, 2015]

Section 904. Definitions.

(A) “Finance Committee” means the committee established pursuant to Title 14, Chapter Two, Seminole Nation Code of laws.

(B) “Per Diem Allowance” means a daily payment instead of reimbursement for actual expenses for lodging, meals, and related incidental expenses.

(C) “Travel Expenses” means costs for transportation, lodging, subsistence, and related items incurred by individuals who are in travel status on official business of the Seminole Nation.

[HISTORY: Enacted by Ordinance No. 2013-11;
Renumbered by TO- 2015-06, July 25, 2015]

Section 905. Travel Regulations.

(A) To implement the policies set forth in this Chapter, the Finance Committee (as authorized by Title 14, Section 204(b)(2) of the Seminole Nation Code of Laws) shall establish Seminole Nation travel policies and regulations consistent with the policies in this Chapter and with any applicable requirements of federal law and regulations.

(B) The Executive Department of the Seminole Nation shall be responsible for the design and maintenance of travel related forms, whether paper or electronic.

[HISTORY: Enacted by Ordinance No. 2013-11;
Renumbered by TO- 2015-06, July 25, 2015]

Section 906. Travel Policy Overview.

Except where provided otherwise in this Chapter, or in the policies and regulations prescribed pursuant to Section 605 of this Chapter, it is the policy of the Seminole Nation to comply with the requirements of the Federal Travel Regulation (TFR) and reimburse travel expenses based on the allowances stated therein.

[HISTORY: Enacted by Ordinance No. 2013-11;
Renumbered by TO- 2015-06, July 25, 2015]

Section 907. Permission to Travel.

Any travel for official Tribal business must have prior approval by appropriate supervisory personnel.

[HISTORY: Enacted by Ordinance No. 2013-11;
Renumbered by TO- 2015-06, July 25, 2015]

Section 908. Travel Contact Person.

The Seminole Nation Procurement Office will serve as the primary contact for all travel arrangements, including airfare, lodging, and conference/meeting registration.

[HISTORY: Enacted by Ordinance No. 2013-11;
Renumbered by TO- 2015-06, July 25, 2015]

Section 909. Travel Advances.

(A) Upon the request of any traveler, an advance may be made for individual travel expenses related to authorized travel.

(B) Travel advance requests shall be approved by appropriate supervisory personnel.

(C) Travel advances shall be limited to per diem and mileage allowances, plus other anticipated travel expenses that are necessary and reimbursable.

(D) Except as provided in paragraph (e) below, travel advance requests shall be submitted in a timely manner that allows sufficient time for processing the request before the scheduled travel start date.

(E) Advances for unanticipated travel are permitted under the following conditions:

(1) Funds are available to pay for the travel advance;

(2) The trip is necessary and justified; and

(3) The Principal Chief, Assistant Chief, or the Designee specifically approves the travel Advance request and directs immediate processing of the request.

[HISTORY: Enacted by Ordinance No. 2013-11;
Renumbered by TO- 2015-06, July 25, 2015]

Section 910. Recoupment of Travel Advances.

(A) Travel advances are prepayments of estimated travel expenses, and any traveler receiving a travel advance shall account for the advance upon completion of the travel.

(B) The traveler shall submit a travel expense report justifying the expenditure of the advance within five (5) business days from the date of the traveler's return.

(C) A sum advanced and not used for allowable travel expenses shall be repaid to the Nation. The balance due the Nation may be recovered by deduction from any amount due the traveler, including payroll, and by any other method provided by law.

(D) Any traveler who has received an advance and fails to submit an expense report will result in the total cost of the trip (mileage, per diem, lodging, airfare, registration fee, etc.) being deducted from his/her payroll or from any other amounts due to the traveler.

(E) If an individual receives a travel advance, but the related travel is not performed, the full amount of the advance must be repaid promptly.

[HISTORY: Enacted by Ordinance No. 2013-11;
Renumbered by TO- 2015-06, July 25, 2015]

Section 911. Allowances and Reimbursements Authorized.

(A) Per Diem

(1) An individual traveling on official Tribal business and in travel status for more than twelve (12) hours will be paid a per diem allowance.

(2) Per Diem allowance shall not exceed the maximum rates and amounts established pursuant to 5 U.S.C. §§ 57001-5711.

(3) Except as provided otherwise in this Chapter, per diem allowances shall be calculated using Federal Travel Regulation (FTR) methods.

(B) Meals and Incidental Subsistence Expenses

(1) Meals and incidental subsistence expenses will not be reimbursed when no overnight lodging is required, but the traveler will be allowed to claim travel mileage.

(2) Meals and incidental subsistence expenses are reimbursed when lodging is required. Allowances paid will be calculated using the FTR.

(3) No receipts are required for meals and incidental expense allowances claimed.

(C) Travel by Privately Owned Vehicle

(1) Reimbursement for travel by privately owned vehicle will be permitted when authorized and will be reimbursed at the current rate per the FTR.

(2) Estimated mileage will be based on map mileage. Mileage will be paid on the shortest distance to and from the starting point.

(3) Any traveler requesting reimbursement for travel by privately owned vehicle shall have a valid driver's license and must submit a copy of the license upon request.

(d) Lodging

(1) Lodging will be reimbursed not to exceed the maximum lodging amounts allowed by the FTR unless lodging is at a designated location for the conference or meeting.

(2) Travelers are authorized to obtain single rooms, where two or more travelers are authorized to obtain single rooms. Where two or more travelers, by their choice, stay in one room, only one will be reimbursed lodging expense.

(3) Travelers will be reimbursed for public lodging such as motels or hotels.

(4) Reimbursement for lodging in personal residences is unallowable.

(D) Airfare

(1) Except as provided in paragraph (2) below, travel by air will be reimbursed at coach or economy rates only.

(2) Airfare costs in excess of coach or economy rates are allowable and reimbursable when coach or economy class travel would require circuitous routing, require travel during unreasonable hours, excessively prolong travel, result in additional costs that would offset the transportation savings, or offer accommodations not reasonably adequate for the traveler's medical needs.

(3) The traveler shall document the conditions that justify the use of other than coach or economy class airfare on a trip-by-trip basis. However when use of other than coach is necessary to accommodate a medical disability or other special need, the disability may be certified annually in a written statement by a competent medical authority. If the disability is a lifelong condition, then a one-time certification statement is required.

(E) Rental Car

(1) Reimbursement for rental car costs requires prior approval. Justification for use of a rental car must be provided with the travel request.

(2) Receipts are required to substantiate rental car cost and related expenses, e.g., fuel cost.

(F) Taxi/cab fare, shuttle fare will be reimbursed with receipts.

(G) Parking, bridge, road, and tunnel fees will be reimbursed with receipts.

[HISTORY: Enacted by Ordinance No. 2013-11;
Renumbered by TO- 2015-06, July 25, 2015]

Section 912. Applicability.

Documentation to substantiate expenses claimed on the travel expense report shall be submitted along with the expense report. The Finance Committee shall prescribe regulations that identify the type of documentation required to substantiate each type of travel expense.

[HISTORY: Enacted by Ordinance No. 2013-11;
Renumbered by TO- 2015-06, July 25, 2015]

Section 913. Additional Provisions of Travel Policy.

(A) If the traveler does not travel by the method of transportation required by regulation or selected by the Nation, any additional expenses incurred will be the responsibility of the traveler.

(B) Reimbursement for tips shall not exceed rates and/or amounts established by the Finance Committee.

(C) Travel shall be by the method most advantageous to the Nation, when cost and other factors are considered. If air travel has been determined to be the most advantageous method and if the traveler chooses to drive rather than fly, then the actual cost cannot exceed the most economical airfare ascertained by the travel contact person.

[HISTORY: Enacted by Ordinance No. 2013-11;
Renumbered by TO- 2015-06, July 25, 2015]

CHAPTER TEN
HEAD START/EARLY HEAD START PROVISIONS

Section 1001. Definitions.

- A. “Director” shall mean the Director of the Seminole Nation of Oklahoma Early Childhood Services Program, including Head Start and Early Head Start.
- B. “Head Start” shall mean the Seminole Nation of Oklahoma Early Childhood Services Program, including Head Start and Early Head Start.
- C. “Human Resources ” shall mean the Seminole Nation Human Resources Department.

[HISTORY: Enacted by Ordinance TO-2012-12, October 27, 2012;
Renumbered by TO- 2015-06, July 25, 2015]

Section 1002. General Provisions.

- A. Except as provided in this Chapter or in its Policies and Procedures Manual approved by the General Council, the Headstart Program shall abide by this Title 11 and the Nation’s Labor Laws as approved by the General Council or designated subordinate body as such policies may be amended from time to time; and
- B. In an effort to promote shared governance, the Seminole Nation Head Start/ Early Head Start Policies and Procedures shall be developed in consultation with and approval of both the Seminole Nation Head Start Policy Council and the Seminole Nation Personnel Board; and
- C. Head Start employees shall be bound by the Policies and Procedures Manual as approved by the Seminole Nation General Council; and
- D. As with other Seminole Nation departments, Head Start employees are subject to a six-month probationary period and, both during and after the probationary period, are considered “at-will” employees; and
- E. To the extent any provision of this Title or Chapter or applicable policies conflict with applicable federal law, such federal law shall control.

[HISTORY: Enacted by Ordinance TO-2012-12, October 27, 2012;
Renumbered by TO- 2015-06, July 25, 2015]

Section 1003. Employment Preference.

As required by 45 CFR 1304.52(b)(3), Head Start shall afford a hiring preference to all qualified current and former head start parents. If no current or former head start parent applies for an available position, or if no current or former head start parent meets or exceeds the minimum qualifications for the position, then Head Start shall abide by the Nation's existing hiring preferences.

[HISTORY: Enacted by Ordinance TO-2012-12, October 27, 2012;
Renumbered by TO- 2015-06, July 25, 2015]

Section 1004. Recruitment and Selection.

- A. Notices of vacancies shall be published by Human Resources in accordance with the Seminole Nation's policies. .
- B. Copies of vacancy notices shall also be provided by Human Resources to be posted at all Centers by the respective Center Supervisor.
- C. The Director shall provide each Policy Council Representative with a copy of vacancy notices to implement the process of recruiting Head Start/Early Head Start parents and guardians to apply for jobs for which they are qualified.
- D. Applications shall be submitted to Human Resources and must be accompanied by the applicant's driver's license, credentials/certifications, and resume (if applicable). Applicants who are claiming "Indian Preference" must also include copies of CDIB/Tribal Enrollment Cards.
- E. Human Resources shall submit those qualified applicants to the Seminole Nation Head Start Director for ranking and screening according to applicable Head Start job descriptions.
- F. Applications for a Head Start Director shall be submitted to the Principal Chief.
- G. The Director may interview only those candidates who meet the minimum qualifications for the advertised position. Participants in the interview process shall include the Head Start Program Director and such other individuals as may be reasonably necessary, including but not limited to, Human Resources Representative, Content Area Manager, Center Supervisor (if applicable), or a Policy Council Representative.
- H. Each interviewee will be provided a job description for the position he or she has applied prior to beginning the interview.
- I. The Director, in consultation with the Interview Panel, will select the best applicant for employment. The successful applicant shall be notified and required to submit such

additional documentation as necessary to complete the employee's file. The Director shall notify Human Resources of the successful candidate within one (1) working day after interviews are conducted.

- J. Unsuccessful applicants shall be notified in writing by Human Resources within five (5) working days after interviews have been completed. Copies of application materials shall be returned to Human Resources for consideration of future vacancies.
- K. The successful Candidate shall not be permitted to begin new employee orientation until his or her employment file is complete and the applicant has successfully passed a background check, health screening and a drug test. Specifically, the successful applicant must complete the following:
 - 1. Drug Test
 - 2. Initial health examination that includes screening for tuberculosis, X-ray if testing positive for TB, and physical examination. A program-approved Health Record Form will be used. A health examination must be completed annually.
 - 3. OSBI and DHS Background Check submitted by the Head Start/Early Head Start Program
 - 4. FBI Background Check submitted by the Seminole Nation Human Resource Department.
 - 5. Child Care Staffing Forms.
- L. The successful Candidate shall be required to provide a signed Declaration of Background Information stating that he or she has not been charged with or entered a plea of guilty or nolo contendere (no contest), or been convicted of the following:
 - 1. Any criminal activity involving violence against a person;
 - 2. Child abuse or neglect;
 - 3. Possession, sale or distribution of illegal drugs;
 - 4. Sexual misconduct; or
 - 5. An act of gross irresponsibility or disregard for the safety of others or a pattern of criminal activity.

[HISTORY: Enacted by Ordinance TO-2012-12, October 27, 2012;
Renumbered by TO- 2015-06, July 25, 2015]

Section 1005. Temporary Hires.

- A. The regular work force may be supplemented as needed with temporary employees or other forms of flexible staffing as otherwise provided by the Seminole Nation of Oklahoma Personnel Policy Manual or other applicable policy.
- B. The hiring of temporary employees must be in accordance with Seminole Nation Policies and Procedures. but the hiring process shall not require advertisement in local media.
- C. Although temporary employees may be hired on an expedited basis, all temporary hires must successfully pass all background, health and drug screening required of other job candidates.
- D. If a position filled by a temporary employee is one requiring a permanent employee, the Director shall commence the recruitment and advertising process for the position within thirty business days and shall provide the temporary employee the opportunity to apply and interview with other candidates.

[HISTORY: Enacted by Ordinance TO-2012-12, October 27, 2012;
Renumbered by TO- 2015-06, July 25, 2015]

Section 1006. Termination Procedures.

The following shall apply to Head Start employees:

- A. The Head Start Policy Council must approve or disapprove any recommendation by the Director for the termination of a Head Start employee, unless the termination is due to job abandonment
- B. Head Start/Early Head Start employees may be subject to discipline or immediate termination for following non-exclusive violations, not limited to:
 - 1. Any breach of confidentiality.
 - 2. Violation of the dress code.
 - 3. Violation of Seminole Nation drug and alcohol policies, including a positive drug test.
 - 4. Employees who do not fully complete any required drug or alcohol counseling or treatment.
 - 5. If an employee is tested positive for alcohol or drugs for a second time, they will be terminated immediately.

6. Violation of the Seminole Nation Head Start/ Early Head Start Policies and Procedure Manual.
7. Violation of federal Head Start/ Early Head Start regulations.

[HISTORY: Enacted by Ordinance TO-2012-12, October 27, 2012;
Renumbered by TO- 2015-06, July 25, 2015]

Section 1007. Appeals

Federal regulations require an internal dispute resolution process for Head Start Programs. This internal dispute resolution process shall not include terminations. Seminole Nation Head Start and Early Head Start employees do not have appeal rights to the Seminole Nation Personnel Board or the Seminole Nation District Court.

[HISTORY: Enacted by Ordinance TO-2012-12, October 27, 2012;
Renumbered and Amended by TO- 2015-06, July 25, 2015]

Section 1008. Investigation of Child Abuse or Mistreatment.

- A. If any employee is suspected of engaging in the physical punishment, mistreatment, neglect or abuse of a child, the following, non-exclusive procedures shall apply
 1. The Director shall conduct an immediate investigation upon receipt of any information indicating the possible mistreatment, neglect or abuse of a child.
 2. The Director shall report allegations/incidents to the Oklahoma Department of Human Services and/or Bureau of Indian Affairs-Child Welfare Office and the Seminole Nation Lighthouse for further investigation.
 3. The employee may be suspended during the course of the investigation.
 4. If the investigation confirms the allegations, the employee shall be immediately terminated without possibility of rehire.
- B. The same procedures shall also apply to any employee who is suspected of failing to report the physical punishment, mistreatment, neglect or abuse of a child.

[HISTORY: Enacted by Ordinance TO-2012-12, October 27, 2012;
Renumbered by TO- 2015-06, July 25, 2015]

Section 1009. Drug Testing.

The Seminole Nation Head Start/ Early Head Start Program may enact policies requiring more stringent drug testing than otherwise utilized by the Nation, either on its own initiative or as required by federal law.

[HISTORY: Enacted by Ordinance TO-2012-12, October 27, 2012;
Renumbered by TO- 2015-06, July 25, 2015]