

## CHAPTER 29 PERSONNEL

### 29-1 TITLE AND PURPOSE.

29-1.01 This shall be known as the Kootenai Tribe of Idaho Personnel Policies and Procedures Code.

29-1.02 The purpose of these personnel policies and procedures is to promote the physical, economic and social well-being of Kootenai Tribe of Idaho employees and to establish a means to extend fair treatment to all employees in a uniform and equitable manner. These personnel policies and procedures are intended to comply with all federal laws applicable to the Kootenai Tribe of Idaho. If any part of this Code conflicts with any such laws or any rules, regulations or conditions prescribed by any funding source, those regulatory specifications shall prevail.

29-1.03 Amendments. Amendments to the personnel policies and procedures may be recommended by any person at any time, but all proposed changes must be approved by the Tribal Council.

29-1.04 Applicability. These policies and procedures apply to all Tribal governmental personnel including full-time, part-time, and temporary employees. A copy of this chapter shall be given to each Tribal employee, who shall sign a statement saying they have read the chapter and received a copy.

29-1.05 Employment At Will. These policies and procedures are established as general guidelines to promote the efficient operation of the Tribal government and may be modified at any time at the sole discretion of the Tribal Council. Employment with the Tribe is considered "at-will" and entered into voluntarily. Employees are free to resign at any time, for any reason, with or without notice. Similarly, the Tribe is free to conclude the employment relationship at any time.

29-1.06 Tribal Employment Rights. These policies and procedures shall be interpreted consistent with the provisions of Chapter 19, Tribal Employment Rights and nothing herein shall be deemed to supersede the provisions of such chapter.

### 29-2 DEFINITION OF TERMS.

- (1) Absence Without Leave (AWOL) – Any unauthorized absence.
- (2) Administrative Leave – Periods of time during regular business hours that an employee receives compensation for, but does no actual work. For example, the Tribe has designated lunch hours and Friday afternoon as administrative leave. Those periods of time are included as hours worked for compensation purposes, but are not included as work for purposes of overtime.
- (3) Compensatory Time – The time required to compensate an exempt employee for authorized extra work related activities.
- (4) Tribe – The Kootenai Tribe of Idaho.
- (5) Chain of Command – The Chain of Command for each job position is determined by the Tribal Council and illustrated on the Tribal Governmental Organizational Chart.
- (6) Tribal Council – The governing body of the Kootenai Tribe of Idaho.
- (7) Disciplinary Action – An oral warning, written reprimand, special probation, suspension or dismissal taken for cause.
- (8) Disciplinary Probation – A period in which an employee must perform well in order to atone for prior misconduct and to continue in employment.
- (9) Dismissal – Involuntary termination of an employee's employment with the Kootenai Tribe of Idaho.
- (10) Employment Date – The date on which an employee commences performance of duties and is placed on the payroll.
- (11) Full-time Employee – An employee who works a normal work week of 32 or more hours.
- (12) Grievance – A written complaint delivered through the appropriate channels.

- (13) Leave – Authorized absence from regularly scheduled work hours which has been approved by proper authority.
- (14) Overtime – Time an employee is directed and authorized to work in excess of 40 hours per week.
- (15) Part-Time Employee – An employee who is regularly scheduled to work fewer than 32 hours per week.
- (16) Permanent Employee – An employee who has been retained in his/her appointed position after satisfactory completion of a ninety-day probationary period. This includes those employees who work 32 or more hours every week who shall be eligible for full fringe benefits.
- (17) Personnel Records – A confidential folder or file containing information related to an individual's employment.
- (18) Probation – A specific time period during which the employee's work is evaluated to determine fitness or career status. Also used in disciplinary cases to provide a specific period of time for an employee to improve performance or meet other criteria to avoid dismissal.
- (19) Probationary Employee – A full-time or part-time employee who has not completed the initial probationary employment period. Also used in disciplinary cases to provide a specific period of time for an employee to improve performance or meet other criteria to avoid dismissal.
- (20) Reprimand – A written warning to an employee that a Department Director believes a deficiency exists in the employee's work performance or conduct and improvement is needed.
- (21) Resignation – The termination of employment at the request of the employee.
- (22) Suspension – A disciplinary action which temporarily removes an employee from work, with or without pay.
- (23) Temporary Employee – An employee who has received an appointment for a specified limited period, on a full-time or part-time basis and whose appointment may be terminated without appeal. Employees in this status do not receive sick leave or annual leave or holiday pay.

### 29-3 RECRUITMENT AND SELECTION

29-3.01 Nondiscriminatory/Equal Opportunity Policy. The Kootenai Tribe of Idaho does not discriminate because of religion, race, creed, age, sex, sexual preference, ancestry, color, national origin, marital status, or physical handicaps, in its procedures for employment, upgrading, demotion, lateral assignment transfer, recruitment, layoff, termination, compensation, training, or other benefits. All personnel policies, procedures and actions shall be in accord with the provisions of the Law & Order Code of the Kootenai Tribe of Idaho and applicable federal law. Tribal preference or Indian preference shall be observed in accordance with Chapter 19, Tribal Employment Rights.

29-3.02 Advertisement of Positions. When a vacancy occurs in any position, or a new position is created, the vacancy shall be advertised for at least five (5) business days throughout the Kootenai Reservation by written announcement posted in the Tribal Office and at other public places designated by the Council. Announcements shall include the job description, the date the announcement was posted, the closing date for applications and the place where applications may be obtained and submitted. Any special requirements for advertisement of vacancies required by individual funding sources (for example, the Job Training Partnership Act-JTPA) shall be observed.

29-3.03 Applications. All applications for employment with the Tribe shall be made on forms prescribed by the Council. Application forms shall be identical for all applicants, except that applicants who are eligible for special employment programs (e.g. JTPA) may be required to submit different or additional forms required by the program concerned. Resumes or additional information concerning employment history may be attached to an application.

29-3.04 Interviews. An Interview Committee consisting of at least three persons shall be appointed by the Tribal Council for each vacant position. All applications, which have been received for the position, shall be given to the Interview Committee as soon as practicable after the position advertisements has closed and the Committee has reviewed all applications. The Interview Committee shall conduct personal interviews and rank all applicants according to their experience, work records, suitability for the position, and other factors relevant to the job offered, and shall recommend the top-

ranking applicant to the Tribal Council for employment. The final selection and the actual offer of employment shall be made by the Council. No one may be empowered to offer employment to any person except by formal decision of the Council.

#### 29-3.05 Certification and Criminal Background Checks

(1) For certain job responsibilities, employees may be required to possess specific certifications or licenses. These may take the form of academic degrees, licenses from examining boards, or operating licenses for certain kinds of machinery. When such licenses or certifications are required, they will be incorporated in class specifications. Individuals shall be responsible for the maintenance of their certificates if they are a condition of their employment.

(2) The following classes of employees are subject to a criminal background check prior to beginning employment:

- (a) Individuals who come into contact with children as part of their regular job duties.
- (b) Individuals who transport or enter homes of the elderly as part of their regular job duties.
- (c) Individuals who come into contact with individuals with disabilities in need of support.
- (d) Individuals employed in the Tribal Finance Department.

29-3.06 Bonding. Some job responsibilities may require employees to be bonded. The cost of bond shall be carried by the Kootenai Tribe of Idaho.

29-3.07 Liability. Employees are expected to perform their duties with prudent judgment and within the laws and regulations that apply.

(1) Employees who do so may not be considered negligent, and therefore not liable, for accidents or injuries which may occur.

(2) If an employee is negligent in the performance of duties and if negligent performance results in loss or damage to self, or other employees of Kootenai Tribe of Idaho property or premises, the employee may be held personally and legally liable for such loss or damage.

#### 29-4 HARASSMENT POLICY

29-4.01 Harassment Prohibited. Harassment, including sexual harassment, is contrary to basic standards of conduct between individuals and is prohibited by the Kootenai Tribe of Idaho. Any employee who engages in such harassment will be subject to corrective action up to and including dismissal.

(1) Harassment is defined as verbal, physical or visual conduct of a racial, ethnic or other type which, in the employee's opinion, impairs his or her ability to perform the job.

(2) Sexual harassment is defined as unwelcome sexual advances or visual, verbal or physical conduct of a sexual nature. This definition includes many forms of offensive behavior, including gender-based harassment of a person of the same sex as the harasser, conduct of sexual nature that creates an offensive, intimidating or hostile work environment; and coerced sexual conduct by a person in a position of authority in the workplace.

29-4.02 Procedure. An employee who believes he or she has been a victim of harassment should report such incident(s) to a supervisor or to the Tribal Council. Employees will not be penalized for reporting what they believe to be harassment under Tribal policy.

#### 29-5 COMPENSATION AND REIMBURSEMENT.

29-5.01 Job Descriptions. Job descriptions will be approved by the Tribal Council and provided to all employees.

29-5.02 Pay Periods. Employees will be paid weekly.

29-5.03 Compensatory Time. Compensatory time is time worked beyond 40 hours or on paid holidays during a work week. Work hours during administrative leave will not be considered for compensatory time. Work hours on paid holidays will be calculated on a 1:1 hour basis (e.g. if an employee works eight hours on a paid holiday, he or she should insert sixteen hours on his or her timesheet). Tribal Council will adopt specific policies as to how to calculate compensatory time for lunch breaks. No payment of compensatory time will be made upon employment separation.

(1) The Tribal Employee who works extra hours must keep a daily record of hours worked and submit the record to the Tribal timekeeper on the employee's next time sheet.

(2) No more than 40 hours of compensatory time may be accumulated at one time, hours in excess of 40 shall be treated as voluntary work. Hatchery employees, and such other employees designated by Council, can accrue up to 80 hours of compensatory time.

(3) Compensatory time taken without the prior approval of the employee's supervisor shall be treated as unauthorized leave. Exceptions may be granted by the supervisor or a Council member in special circumstances.

29-5.04 Supervisory and Administrative Personnel (Exempt). Employees in a supervisory or administrative position are expected to work the time required to complete normal duties or to attend meetings and conferences. Exempt employees who work amounts of time in excess of 40 hours per week may be compensated upon approval of the Council.

29-5.05 Non-supervisory Personnel (Non-exempt); Overtime. As a general policy, overtime is disallowed. However, when employees are directed to work overtime, they shall be compensated with pay at the rate of one and one-half time the regular rate of pay. Only those hours actually worked may be counted for purposes of overtime. Work hours during which actual work does not occur, such as lunch hours and other administrative leave, will not be considered for purposes of overtime. Overtime will be paid within the pay period for which it was reported.

Approval for an employee to work overtime shall depend upon the following:

(1) Verification that the grant/contract(s) funding the employee(s) allows payment of overtime;

(2) Overtime work must be authorized in advance by the Tribal Council;

(3) [Repealed]

(4) Overtime compensation shall only be for the time worked in excess of 40 hours per week; and

(5) When computing an employee's hours for the purpose of determining overtime, all hours the employee worked during the week shall be counted.

29-5.06 Salaries and Wages. Position salaries shall be established by the Council within the limitations set by the appropriate funding sources. Employees shall be paid at a rate no lower than the federal minimum wage. Subject to this minimum wage, the salary for each position shall be in accordance with prevailing local practices for comparable positions, when such exist.

Salary increases and promotions will be granted by Council when warranted, subject to availability of funds, performance and the needs of the Tribe.

29-5.07 Probationary Period. The probationary period is an integral part of the selection procedure allowing the Department Director to train, observe, and evaluate the employee's performance in order to determine fitness for career status in the position. The probationary period shall be a minimum of 90 calendar days, but can be longer subject to Council discretion. The probationary period may be waived by the Tribal Council for in-house transfers.

(1) The following actions may be recommended by the Department Director to the Tribal Council for approval:

- (a) Based on satisfactory performance by the employee, that the employee be given permanent appointment.
- (b) Based on unsatisfactory performance, an employee that was an in house hire be demoted or returned to their former position, if available.
- (c) Based on unsatisfactory performance, that the employee be dismissed.
- (d) Based on the judgment of the immediate supervisor, the probationary period may be extended for up to an additional 90 calendar days.

## 29-6 EMPLOYMENT SEPARATIONS

29-6.01 Voluntary Termination. While employment with the Tribe is at-will, the Tribe requests that an employee who may voluntarily terminate employment give two week's notice to the Tribal Council.

29-6.02 Involuntary Termination. An employee who is dismissed without prejudice (because of budget restrictions, organization changes, etc.) may be given two weeks notice by the Tribal Council. In its discretion, the Council may give two weeks pay in lieu of notice. An employee who is dismissed for cause (with prejudice e.g. for misconduct) is not entitled to notice, but may be dismissed immediately by the decision of the Tribal Council.

29-6.03 Severance Pay. Upon dismissal from or voluntary termination of employment with the Kootenai Tribe of Idaho, an employee shall receive, together with his/her accrued salary or wage, a cash payment in the amount of accrued unused leave. The amount of any employee's overdue indebtedness to the Kootenai Tribe of Idaho shall be deducted from the amount of compensation, up to the limits specified by applicable federal wage laws, to be paid at severance according to the employee's written loan agreement.

## 29-7 EMPLOYEE CONDUCT.

29-7.01 General Conduct of the Kootenai Tribe of Idaho Employees. All employees shall conduct themselves in a professional manner to reflect favorably on the Kootenai Tribe's public image and to ensure orderly working conditions. Employees should exercise the utmost discretion in regard to all matters of official business and records. Any information which has been received by an employee on a confidential basis must be maintained in confidence.

29-7.02 Confidential Information. Employees may not disclose privileged or confidential information to any other individuals, including other employees or officials, except for official reasons and with the consent of the Tribal Council or by an order of a court of competent jurisdiction. All work products, including confidential information, produced by an employee in the performance of duties are the property of the Tribe.

(1) The following, but not limited to the following, shall be considered confidential information:

- (a) Discussion or materials from an executive session of the Tribal Council, unless the Council specifically authorizes disclosure
- (b) Client information of a personal nature, such as personal or household income, health, academic records, paternity, arrest records and court proceedings, except to the extent such

information is necessary to determine the client's eligibility for Tribal services or to provide such services to the client

(c) Employee information of a personal nature, such as personal or household income, health, academic records, previous criminal history, disciplinary actions and performance evaluations, except to the extent such information is necessary to determine an employee's or applicant's suitability for Tribal employment or in disciplinary proceedings

(d) Tribal personnel records

(e) Medical, counseling or other health related records

(f) Information provided by the Legal Department, unless authorized to be released by the Legal Department

(g) Cultural information

(h) Any other information the Tribal Council directs shall be kept confidential

**29-7.03 Public Statement.** An employee may not speak to the public media as an official spokesman of the Kootenai Tribe of Idaho without prior clearance of the Tribal Chairperson or his/her designee, who will determine the appropriate action to be taken. Any deviation from this policy will be considered a serious infraction and will be subject to disciplinary action.

**29-7.04 Public Appearances.** An employee who is asked by an outside agency or organization to appear as a guest speaker or invited program participant representing the Kootenai Tribe of Idaho must obtain prior clearance in writing from the Tribal Chairperson or his/her designee. The written clearance shall be included in the employee's personnel record.

**29-7.05 Gifts and Gratuities.** Employees are prohibited from accepting gifts, money, and/or gratuities from persons performing services under contract or otherwise in a position to benefit from the employee's actions.

**29-7.06 Employee Relations Policy.** All personnel at all levels of the Kootenai Tribe of Idaho are obligated to respect one another's basic human rights and human dignity, and further, to work cooperatively in performing the Kootenai Tribe of Idaho's service. Any disputes between employees, if they cannot be settled at the individual level, should be dealt with at the staff meeting level before they are brought to the attention of the Council. Gossiping, griping, and criticizing other employees is not acceptable. If an employee has a complaint about another employee or about working conditions, the complaint should be aired openly through the Chain of Command rather than used as a basis for internal dissension.

**29-7.08 Employee Schedules.** General Tribal operation hours are Monday through Friday from 8:00a.m.-4:00 p.m. Variations (except those governed by administrative leave policies) are expected depending on the needs of each Department and subject to the discretion of the Department Director. Any permanent schedule variations must be approved by Tribal Council.

## **29-8 DRUG AND ALCOHOL POLICY.**

**29-8.01 Alcohol and Drug-Free Workplace Policy.** The Kootenai Tribe of Idaho has a strong commitment to provide a safe workplace for its employees. Consistent with that commitment, Kootenai Tribe of Idaho has adopted an alcohol and drug-free workplace policy.

(1) The use, sale, distribution, manufacture or possession of alcohol or drugs, paraphernalia, the unauthorized use of prescription drugs, the use of any legally obtained drug (prescriptions or over-the-counter medications) when such use adversely affects the employee's job performance or safety, or any combination thereof, on Tribal premises or any location at which government business is conducted, including Tribal vehicles and any private vehicle parked on government premises or work sites or used in the course of employment, is prohibited.

(2) In addition, reporting to work or working while under the influence of alcohol or drugs is forbidden. Employees who are taking prescription drugs or over-the-counter drugs that may affect their performance should discuss their situation with their supervisor and obtain permission before beginning work. Employees may be required to provide properly written medical authorization from a physician to work while using such authorized medications. Any violation of this policy will result in disciplinary action, up to and including dismissal.

#### 29-8.03 Drug Testing.

(1) The Kootenai Tribe of Idaho will employ every legal means available to it to operate free from alcohol and drugs. Accordingly, drug testing shall be conducted for:

- (a) Applicants recommended for hire;
- (b) Employees where there is reasonable suspicion to suspect drug or alcohol use and/or intoxication in the workplace;
- (c) Employees involved in an on-the-job accident or on-the-job accident claim; and
- (d) Employees selected from the random selection pool

(2) This list is not intended to limit the events which would require a drug test and Kootenai Tribe of Idaho reserves the right to test for alcohol and drug abuse for other lawful reasons. Testing shall be conducted pursuant to policy adopted by the Tribal Council.

(3) A positive test result shall be deemed a violation of this policy and result in disciplinary action, up to and including dismissal. An employee has the right not to consent to being tested. However, refusal to submit to testing when requested will result in disciplinary action, up to and including immediate dismissal.

29-8.04 Other Illegal Usage. Off-the-job illegal drug use which could adversely affect an employee's job performance or which could jeopardize the safety of other employees, the people the Tribe serves, Tribal facilities, or where such usage could jeopardize the security of Tribal finances or government records, or where such usage adversely affects the public's trust in the ability of the Tribe to carry out its responsibilities, will not be tolerated.

29-8.05 Prescribed Medical Treatment. Employees undergoing prescribed medical treatment with a controlled substance that may affect the safe performance of their duties are required to obtain a doctor's written note indicating the drug will not impair the employee's work performance.

29-8.06 Employee Assistance Program. Employees may choose, or in some cases, be required to seek a treatment program for drug or alcohol abuse. Rehabilitative costs are the responsibility of the employee, although the Tribe may in certain situations provide or fund such services at the discretion of the Tribal Council. Additionally, employees shall be notified of the assistance available through Tribal programs, such as the Tribal Drug and Alcohol Counselor.

Employees may be retained after a violation of this policy solely at the discretion of the Tribal Council. Reinstatement to employment may be conditioned upon the receipt of a negative test and the determination that the employee is drug and alcohol free and the risk of subsequent use of dangerous drugs or alcohol is sufficiently low to justify return to work.

Employees must agree to be subject to unannounced drug or alcohol testing for a time period determined by the Tribal Council. Such subsequent tests will be at the employee's expense. A positive result during this time period will result in immediate dismissal.

#### 29-9 USE OF TRIBAL PROPERTY; WORKPLACE SAFETY

29-9.01 Safety and Use of Tribal Vehicles Policy. Certain employees may be assigned vehicles with which they commute between their homes and the office or for official Tribal business. It is

against Kootenai Tribal policy to use Tribal vehicles without the express permission of the Tribal Council.

(1) In an effort to help ensure the safety of all Tribal employees, the following outlines the Tribe's driving policies. This policy applies to any employee operating either a Tribal vehicle or a personally owned vehicle used for work purposes:

In order to drive a vehicle, the driver must:

- (a) Be at least 18 years of age;
- (b) Possess a valid driver's license with no restrictions on driving privileges;
- (c) Have supervisor approval and be driving for Tribal government purposes;
- (d) Wear seatbelts and have passengers wear seatbelts when the vehicle is in motion;
- (e) Comply with all applicable traffic laws and the lawful instructions of emergency and law enforcement personnel;
- (f) Abstain from ingesting controlled substances, intoxicating beverages, prescription drugs or other medications that caution against operating a motor vehicle;
- (g) Abstain from transporting drugs or alcohol, or transporting passengers who are intoxicated or in possession of drugs or alcohol;
- (h) Unless job requirements otherwise require, abstain from situations or activities that may adversely impact the driver's ability to safely operate a motor vehicle such as fatigue, adverse weather, illness, reading or use of a cell phone;
- (i) Refrain from texting while driving at all times.

(2) Drivers shall report to their supervisor immediately the following situations:

- (a) Any medical or physical condition that may impair his or her ability to drive.
- (b) All on-duty incidents, including those that could result in a violation, citation, charge, arrest, warrant or civil action or result in damage that must be reported for insurance purposes.
- (c) Any suspension, revocation, cancellation or disqualification of driving privileges.

(3) In order to help enforce this policy, all driver's driving records will be checked no less than annually by either the Tribe or by the Tribe's insurance company. An employee who operates a motor vehicle while on the job consents to have his/her motor vehicle record checked at least once per year. Anyone found to be in violation of the above policies will have their driving privileges revoked. The Tribe reserves the right to take further disciplinary action against anyone in violation of the above policies.

**29-9.02 Other Tribal Property.** It is against Kootenai Tribal policy to remove any Tribal property, which includes computers or other equipment, merchandise, gas or other credit cards, funds or supplies from work premises without the express permission of the Tribal Council.

All computer equipment, software, network and any data produced on the computers belong to the Kootenai Tribe of Idaho. All use of this equipment and data produced and accessed on it shall be used only for legitimate Tribal purposes and consistent with the employee's responsibilities.

**29-9.03 Prosecution of Theft.** All cases of employee theft shall be subject to civil prosecution in Tribal Court. Civil fines shall be determined based on the damages toward the Tribe. Tribal policy is and will be to prosecute each case, without exception and without recourse. Instances of employee theft shall also be referred to appropriate law enforcement for criminal prosecution in Tribal Court or other court of competent jurisdiction.

**29-9.04 Internet & Electronic Mail.** The use of computers and network equipment by employees is limited to official Tribal business. This policy prohibits activities on internal and external electronic mail networks such as: operating a business for personal gain; sending chain letters or soliciting



money; offensive or harassing statements; sending, downloading or soliciting sexually oriented messages or images; distributing or printing copyrighted material (including articles and software) in violation of copyright laws. Employees are prohibited from the unauthorized use of passwords and encryption keys to access files, or to retrieve stored information. Violation is grounds for disciplinary action up to and including immediate dismissal.

**29-9.05 Workplace Safety.** It is Kootenai Tribal policy to protect the safety and health of all employees.

(1) Department Directors shall be responsible for, but not limited to, the following:

- (a) The safe conduct of employees while under their supervision.
- (b) Providing a written report to the Tribal Chairperson, Vice-Chairperson or designated District Representative within two workdays from the time of occurrence of any on-the-job injury.
- (c) Conducting periodic workplace inspections to identify safety and health hazards and provide copies of these inspections to the Tribal Council.

(2) If an accident or incident occurs, employees must report all accidents or incidents, no matter how slight, immediately to their Department Director. Reporting on the next work shift is not an acceptable practice.

**29-9.06 Electronic Devices.** All electronic devices provided by the Tribe, including but not limited to cellular phones, PDA's, laptops, computers, and any mobile communication devices, must exclusively be used for Tribal purposes. Personal use of these devices is prohibited. Employees have no expectation of privacy with these devices and may be subject to discipline if discovered using electronic devices provided by the Tribe for personal use. To monitor productivity and ensure a discrimination free workplace, the Tribe reserves the right to monitor employee usage of all electronic devices it provides. Misuse of electronic devices provided by the Tribe will result in disciplinary action up to and including immediate dismissal.

## **29-10 DISCIPLINARY ACTION**

**29-10.01 General.** An employee who violates the personnel policies of the Kootenai Tribe of Idaho or otherwise fails to perform according to minimum acceptable standards of work performance and conduct will be disciplined, up to and including dismissal. Nothing herein shall be deemed to modify the at-will employment relationship.

**29-10.02 Poor Performance.** In the case of poor performance, the Department Director shall call each instance to the attention of the employee and, if not satisfied with the employee's explanation, shall place a memorandum stating the nature of the instance, the date of the discussion, and the employee's response in the employee's personnel file. Two such written records within a six-month period shall warrant suspension of the employee without pay by the Department Director for a period of one week. Three such written records of performance deficiencies within a six-month period shall warrant bringing the matter to the attention of the Tribal Council for consideration and possible dismissal of the employee.

**29-10.03 Disciplinary Probation.** Disciplinary probation may be placed on an employee. This will not affect fringe benefits or leave accrual. Employees on disciplinary probation will not receive merit pay increases nor attend training workshops. Probation may not exceed three (3) months and must be made in writing by the Department Director to the employee, stating the reasons for the action. A copy is to be kept in the employee's personnel file.

**29-10.04 Violation of Rules.** Any employee who violates these personnel policies or minimum acceptable standards of conduct may be subject to suspension without pay, placement in probationary status, or immediate dismissal for cause.

Whenever possible, discipline shall be of increasingly progressive severity. In circumstances so egregious as to pose a threat to the physical safety of other persons or Tribal property or to impair the operations of the Tribe, the employee may be immediately dismissed. Examples of the kinds of action which can lead to this measure include, but are not limited to, absence without leave, drinking on the job, dishonesty, etc.

**29-10.05 Just Cause for Discipline.** Employees shall not violate Tribal rules and regulations. Conduct outside of work shall not be covered by these rules except as such conduct impacts job performance. Just cause for discipline, up to and including dismissal, shall include, but is not limited to, the following infractions:

- (1) Verbal harassment or intimidation of a Tribal employee, official or client.
- (2) Use of foul or abusive language.
- (3) Assaulting or threatening to assault a Tribal employee, official or client.
- (4) Refusal to carry out the directions or instructions of Department Directors.
- (5) Violation of the Personnel Code and/or failure to follow the procedures as described herein.
- (6) Use or abuse of alcohol or narcotics (excluding prescription drugs used for their prescribed purpose) at work, or affecting job performance.
- (7) Excessive absenteeism or tardiness.
- (8) Misusing or damaging Tribal property.
- (9) Failure to follow the employee grievance procedure described herein or circumventing its provisions.
- (10) Instituting or threatening to institute disciplinary action against an employee without justification.
- (11) Intentionally or recklessly endangering the safety of other employees or violating safety rules or standards.
- (12) Disclosure of confidential information.
- (13) Deliberately falsifying Tribal records or deceiving Department Directors about job-related activities.
- (14) Theft of or destruction of Tribal property or funds or the property or funds of another employee.
- (15) Falsification or intentional misrepresentation of a material nature on an employee's application for employment.
- (16) Unsatisfactory job performance, after being given the means and the opportunity to improve.
- (17) Failure to return to work after an approved leave of absence.
- (18) Sexual harassment.
- (19) For probationary employees, failure to perform their job duties satisfactorily within the probationary period.
- (20) Conviction of or admission of a crime that reflects adversely on the reputation or image of the Tribe; affects, inhibits or prevents effective job performance; or makes it impossible for the person to work with other employees; such crimes to include, but not be limited to, murder, assault with a deadly weapon, crimes against children, child abuse and domestic violence.
- (21) Unexcused absence from work.

**29-10.06 Levels of Disciplinary Action.** Disciplinary action can take the following forms: written reprimands, suspension without pay, probation and dismissal. Factors to be taken into consideration in determining appropriate disciplinary action include, but are not limited to: severity and frequency of the infraction, level of responsibility of the employee and the employee's work history with the Tribe. While the employment relationship remains at-will and disciplinary levels may be skipped depending on the severity of the violation, the following disciplinary sequence shall generally be followed to the extent practical:

First Offense: Written reprimand to be included in the employee's personnel file.  
Second Offense: Suspension without pay for a period not to exceed two weeks.  
Third Offense: Dismissal.

29-10.07 Right of Appeal. An employee has the right to appeal any disciplinary action, including written warnings for poor performance, directly to the Tribal Council. The decision of the Tribal Council shall be final.

29-10.08 Political Activity. Employment with the Kootenai Tribe may not be offered as consideration or reward for the support or defeat of any political candidate or party for public office.

29-10.09 Nepotism and Conflict of Interest. Because of the small size of the qualified work force of the Kootenai Tribe of Idaho, it shall be permissible for persons who are members of the Tribal Council, or are immediate relatives of Tribal Council members, to be employed by the Tribal government.

#### 29-11 EMPLOYEE GRIEVANCE PROCEDURE.

29-11.01 Policy. An employee who has been aggrieved by an action relating to working conditions, wages, discipline, or promotions may file a grievance under these provisions. Any employee who takes a grievance outside of these procedures shall be subject to disciplinary action.

29-11.02 Time Limits. If the Tribe fails to respond to a grievance within the limits established in this chapter, the grievance will be considered upheld. Denial of the grievance at any step does not prevent the employee from proceeding to the next step; however, a failure by the employee to adhere to the time limits set out herein shall be deemed a waiver of any subsequent grievance rights.

29-11.03 Procedure. Unless the employee and the Tribe otherwise agree in writing, all grievances shall proceed in the following manner:

(1) Within five (5) working days of the occurrence, not including the date of the occurrence, or the time when the employee reasonably should have known of the occurrence, the employee shall try to resolve the situation by an informal discussion with the Department Director.

(2) If the informal discussion does not result in satisfactory agreement, the employee may present a formal written statement to the Department Director within five (5) working days, not including the date of the informal discussion. The written statement shall state the facts and the alleged problem and specify what relief is sought. Any alleged violation of a Kootenai Tribe of Idaho policy, regulation or contract shall be identified.

(3) The Department Director shall forward the employee's written statement to the Tribal Council the day it is received. If this is not possible, it should be forwarded at the first possible date and the employee should be notified, in writing, of the date the notice is received by the Tribal Council.

(4) The Tribal Council shall reply in writing within five (5) working days, not including the date the statement is received.

(5) If the written response does not provide satisfaction or if no written response was given within five (5) working days, the employee has five (5) working days, not including the date the response is received or the fifth day in the event no written response was given, to demand a hearing.

29-11.04 Hearing. A hearing shall be conducted by the Tribal Council, which must include at least one member of the Tribal Council from each Tribal District. The employee and the Department Director shall have the opportunity to present any evidence and arguments in support of their respective positions. A party shall have the right to confront and cross examine any witness called by the other party. Both parties shall have the opportunity to present arguments to the Tribal Council.

29-11.05 Findings. As soon as possible after a hearing, the Tribal Council shall present in writing its findings and decision to the parties. The decision shall be final and binding upon both the employee and the Kootenai Tribe of Idaho.

29-11.06 Remedies. An employee who is terminated or suspended may not remain on the job pending resolution of the grievance. In the event that the employee is successful in his grievance, the Tribal Council may award the employee lost wages.

29-11.07 Value of Precedent. A decision by the Tribal Council in one grievance shall not be a precedent for subsequent cases. Further, any deviation from these procedures which takes place in one case shall not be deemed a waiver of the right to insist on strict adherence to these procedures in a subsequent case.

## 29-12 TIME OFF FROM WORK.

29-12.01 Holidays. The following days shall be observed by the Kootenai Tribe of Idaho as holidays, and all employees shall be entitled to take compensated leave (in addition to other authorized leave) on these days:

(1)	New Year's Day	January 1
(2)	Martin Luther King	January (as designated)
(3)	President's Day	February (as designated)
(4)	Good Friday	Friday before Easter (as designated)
(5)	Memorial Day	Last Monday in May
(6)	Juneteenth	June 19
(7)	Independence Day	July 4
(8)	Labor Day	First Monday in September
(9)	American Indian Day	Fourth Friday in September
(10)	Indigenous Peoples' Day	October (as designated)
(11)	Veterans Day	November 11
(12)	Thanksgiving	4th Thursday in November
(13)	Day After Thanksgiving	
(14)	Christmas Eve	December 24
(15)	Christmas Day	December 25

If one of the named holidays falls on a Saturday or Sunday, then the holiday shall be observed in accordance with national custom or law.

29-12.02 Leave. Leave is provided and used for two general purposes: to allow every employee vacation periods of extended leave for rest and recreation and to provide periods of time off for personal and emergency purposes, including illness.

(1) The Kootenai Tribe of Idaho provides leave for permanent employees which may be taken as earned. Approval and timing of use of leave shall be determined by the supervisor with due regard to the employee's wishes and the needs of the Kootenai Tribe of Idaho. Approval and timing of vacation or use of annual leave for Department Directors shall be determined by the Chairperson with due regard to the employee's wishes and the needs of the Tribe. For an employee's first two years of employment, leave will be accrued at the rate of 4 hours per week for a total of up to 208 hours per year. At the beginning of an employee's third year of employment, leave will be accrued at the rate of 4.5 hours per week for a total of up to 234 hours per year. At the beginning of an employee's fifth year of employment, leave will be accrued at the rate of 5 hours per week for a total of up to 260 hours per year. Annual leave shall not accrue during periods an employee is on annual leave. Employees will accrue annual leave during periods an employee is on compensatory time.

(2) If at the end of the fiscal year an employee has a balance of leave hours, the employee will be paid for such hours up to eighty (80) hours. The remaining balance of any leave hours shall not be carried over.

(3) Each Department Director shall establish such policies and procedures as are necessary to ensure that all employees are able to schedule and take accrued leave each full fiscal year.

(4) [Repealed.]

(5) The Finance Department shall maintain a leave record for each employee.

(6) Holidays occurring during the time of leave will not be charged against leave.

(7) Employees are entitled to their leave pay prior to taking their leave. Employees wishing to receive their leave pay prior to taking their leave must do the following:

(a) Make request of the Finance Department in writing at least one day before such pay is required. Such request must include the timesheets for the period where the employee will be absent.

(b) Employees are entitled to the paycheck for the previous week worked (if not already received), the week last worked, and all complete weeks that the employee will be gone.

(c) An employee is not entitled to pay in advance for weeks that are only partially leave unless such week is at a start of a vacation. For example: if an employee will be gone Monday and Tuesday on leave but will be back on Wednesday, they are not entitled to receive their leave pay prior to taking annual leave.

#### 29-12.03 [Repealed]

29-12.04 Leave Without Pay. Leave without pay (LWOP) is a temporary unpaid status when absent from duty. LWOP may be granted, provided such leave may be scheduled without adversely affecting the operation of the Tribe. Employees are expected to use any accrued leave before going to LWOP. Employees will not accrue leave during LWOP.

(1) Approval. Requests for leave without pay shall be submitted in writing at least two weeks in advance to the employee's immediate supervisor (in the case of Department Directors, the immediate supervisor is the Chairperson, or in his/her absence the Vice-Chairperson) and shall contain reasonable justification for approval. Leave without pay is granted at the Tribal Council's discretion, with the understanding that the employee intends to return to work upon completion of the leave and the retention of the employee is desirable. Seniority status of the employee while on leave without pay will not be affected.

29-12.05 Emergency Leave. The Tribal Council may approve emergency leave for employees with legitimate needs. Emergency leave beyond the employee's total leave balance shall be considered authorized leave without pay.

29-12.06 Authorized Absence. The Department Director or the Tribal Council may authorize the absence of employees due to conditions beyond their control (e.g. hazardous weather, office closure) without the absence being charged to the employees' leave. Such time shall be considered administrative leave and subject to administrative leave policies.

29-12.07 Family and Medical Leave. It is the policy of the Kootenai Tribe of Idaho to provide eligible employees with extended leave benefits for certain family and medical reasons. Employees are expected to use any accrued leave before going to unpaid status.

(1) Eligible employees are employees who have worked for the Tribe for at least 12 months; and completed at least 1250 hours of service during those 12 months.

(2) Eligible employees are entitled to 12 work weeks of unpaid leave during any 12 month period for one or more of the following reasons:

- (a) The birth and care of a newborn child of the employee;
- (b) The adoption or foster care placement of a child with the employee;
- (c) For the care of an immediate family member (spouse, child, parent) with a serious health condition; or
- (d) For medical leave when the employee is unable to work because of a serious health condition. A serious health condition is an illness or injury that involves a period of incapacity, continuing treatments by a health care provider, pregnancy or prenatal care, or a chronic or long term health condition. The Tribal Council will be responsible for determining whether an employee's condition qualifies him or her for extended medical leave.

If both spouses are employed by the Tribe, they are jointly entitled to a combined total of 12 work weeks of unpaid family leave for any of the circumstances described in sections (a)-(c) above.

**29-12.08 Military Caregiver Leave.** It is the policy of the Kootenai Tribe of Idaho to provide eligible employees with extended leave benefits for family members of covered servicemembers.

(1) An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember with a serious injury or illness may take up to twenty-six (26) weeks of unpaid leave in a twelve (12) month period to provide care to a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred in the line of duty on active duty.

(2) Employees are expected to use any accrued leave before going to unpaid status.

**29-12.09 Military Exigency Leave.** It is the policy of the Kootenai Tribe of Idaho to provide eligible employees with extended leave benefits for covered military members due to qualifying exigencies.

(1) For the purpose of section 29-12.09, a covered military member is the employee's spouse, son, daughter, parent or other next of kin approved by Council, who is a member of the National Guard or Reserves and who is under a call or order to active duty in support of a contingency operation.

(2) Qualifying exigency leave may be taken for any qualifying exigency arising out of the fact that a covered military member is on active duty or call to active duty status. Qualified exigencies include:

- (a) Issues arising from a covered military member's short notice deployment (i.e., seven or less days notice);
- (b) Military events, such as official ceremonies, programs, or events sponsored by the military or family support or assistance programs;
- (c) Certain childcare and related activities arising from the active duty or call to active-duty status of a covered military member;
- (d) Making or updating financial and legal arrangements to address a covered military member's absence;
- (e) Attending counseling provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active-duty status of the covered military member;
- (f) Taking up to five days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment;
- (g) Attending to certain post-deployment activities, including attending arrival ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's active duty status, and addressing issues arising from the death of a covered military member; and

(h) Any other event that the employee and Tribal Council agree is a qualifying exigency.

29-13 EMPLOYEE PERFORMANCE PROGRAM.

29-13.01 Employee Performance Program. Each employee's performance shall be evaluated (1) upon completion of the first ninety days of employment (the probationary period), and (2) fourteen days before the end of the funding program year under which the employee is being paid. In addition, each employee shall be given a special evaluation when being considered for salary increase, promotion, transfer, merit award, disciplinary action or separation, or at any other time directed by the Tribal Council. The evaluation shall be done by the employee's Department Director or Direct Supervisor on the standard form approved by the Tribal Council, which in the case of Department Directors shall be the Chairperson. In the case of senior staff employees under the immediate supervision of the Tribal Council, the evaluation shall be done by the person the Tribal Council so designates. Every report shall be reviewed by the Tribal Council before being made a permanent part of the employee's individual file and a basis for personnel action. The employee has a right to receive a copy of the evaluation report and to discuss it with the rating individual before the report is submitted for Tribal Council review. Every employee has the right to appeal an unfavorable evaluation directly to the Tribal Council if unable to resolve the difference through discussion with the rating individual.