

SECTION 9. EMPLOYEE GRIEVANCE AND APPEALS

9-1. PURPOSE

The purpose of the grievance procedure is to provide a uniform and equitable method of resolving grievances as quickly as possible and at the lowest possible level of supervision. This procedure is intended to assure an employee that any grievance will be heard and that corrective action taken will be without reprisal or discrimination against the employee for submitting the grievance.

Every reasonable effort should be made by Supervisors and employees to resolve any questions, problems and misunderstandings. Employees should first discuss any complaint or questions with their Supervisor unless the matter is of a sensitive or personal nature, in which case an employee may approach any member of management with whom he or she feels comfortable. Employees are urged to initiate such discussions at the time the problem or question arises and not delay an approach to management. The Supervisor or management, in turn, should take positive and prompt action to answer employee's questions and resolve complaints presented to them.

A regular employee who is aggrieved by any action as related to working conditions and relationships, or pertaining to any term, condition or privilege of employment, or to Tribal Policies, department rules and regulations, and which cannot be resolved through informal discussions with the supervisor, may file a grievance under the provisions of this section within five (5) working days after the occurrence of the action in question. This five (5) day limitation may be waived if, through no fault of the employee, he or she was unaware of the action before the expiration of the time limits.

Grievances shall include, but are not limited to: Application of Tribal policies, practices, rules, regulations, and procedures believed to be to the detriment of an employee; treatment considered unfair by an employee, such as coercion, reprisal, harassment, or intimidation; alleged discrimination because of race, color, religion, national origin, sex, age, military status, disability, marital status, or any other non-merit factor; and, improper administration of employee benefits or conditions of employment. Only the grievance presented originally shall be considered on appeal. To ensure this, a copy of the original grievance shall be filed with the Human Resources Department.

Similar grievances may be consolidated and processed together as a single issue. Every effort should be made by the parties to resolve the grievance at the lowest possible level. The original grievance will be monitored through each step of the grievance/appeal procedure to record responses from appropriate staff. Copies of the grievance, appeal and related records will be kept in the respective department where originated. The employee should keep a copy of the grievance form recording responses from each step of the process for his/her own record.

All parties involved in the grievance process shall refrain from discussing personnel actions outside of the proceedings described below. The privacy of the involved parties shall be respected to the greatest extent practicable. Failure to do so may be grounds for discipline. All employees involved in a grievance process shall continue to fulfill their assigned duties, unless otherwise relieved of these duties through the initial disciplinary action.

9-2. PROCEDURE

If a formal grievance is filed, it shall be filed and processed in the following manner.

Failure by management to render a decision within the allotted time at any step constitutes a default, and the employee may then proceed to the next step. Failure by an employee to proceed to a higher step within the specified time limits will terminate the grievance.

Step 1. The grievance shall be submitted to the Immediate Supervisor unless the cause of the grievance occurs at a higher level in which case it shall commence at that level. A written grievance should include the following information: 1) A clear and concise written statement of the facts surrounding the complaint; 2) A statement of which rule or policy has been violated, if applicable; 3) A statement of the remedy or correction the employee is requesting; 4) Any other pertinent information, such as persons involved or with knowledge of the situation; 5) Efforts made to resolve the problem or concern at the department level; 6) The employee's signature.

The Immediate Supervisor will render a written decision to the employee within five (5) working days of the filing date.

If the grievance remains unresolved or the decision is considered unacceptable, the employee may proceed to Step 2.

Step 2. Within three (3) working days after the receipt of the decision in Step 1, or after the decision is due, the employee may present the written grievance and such decision to the appropriate Department Head. **The Department Head will render a written decision to the employee within five (5) working days of appeal receipt.** If the grievance remains unresolved or the decision is considered unacceptable, the employee may proceed to Step 3.

Step 3. Within three (3) working days after the receipt of the decision in Step 2, the employee or their representative may present the grievance in writing to the Human Resources Department, who will schedule a Grievance Hearing with the Appeals Board within five (5) working days of appeal receipt. **The Appeals Board will render a decision by majority vote and submit it to the employee, Supervisor, and Department Head within five (5) working days from date of the Grievance Hearing.**

The decision of the Appeals Board will be binding. The Appeals Board will have the power to reverse personnel actions and order corrective actions and remedies.

9-3. APPEALS BOARD

The Appeals Board consists of three (3) members. The Tribal Chairman will select individuals from eligible Tribal employees to serve as Appeals Chairperson and alternates. Regular and part-time employees of the Tribe are obligated to participate in an appeal hearing, if selected.

Appeals Board members must meet the following criteria for inclusion in the Appeals Board pool: employed by the Tribe for at least twelve (12) months; not currently under disciplinary action; fair-minded; no conflict of interest with parties involved in the appeal; and be familiar with Tribal Personnel Policies and Procedures.

Board members are selected by the Appeals Board Chairperson from the following categories: 1) An individual from the Tribe's management staff or non-exempt staff, not involved with the appeal. 2) An individual from the community who has a background of Tribal policies and procedures. Individuals selected for service on the Appeal Board must disclose to the Human Resources Department any conflict of interest upon selection.

If an employee wishes to pursue their appeal after receiving a decision from the Supervisor and Department Head, they must present a written request to the Human Resources Department to empanel the Appeals Board. This request must be filed within three business days of receiving the Department Head's response. Failure to file within the three-day limit is an automatic loss of the right to appeal.

The Appeals Board utilizes approved Tribal Personnel Policies and Procedures as a guideline for the appeals process and hearing procedure. The Appeals Board will only accept requests for appeals after the employee has exhausted all other avenues of appeal including appeal to the Supervisor and Department Head. Members of the Appeals Board shall not participate in a Grievance Hearing when immediate family is involved, or where a conflict-of-interest exists, such as personal involvement, close personal associations or personal prejudices.

Within five (5) working days of appeal receipt in Step 3 of Appeals Procedure, the Appeals Board shall meet for the purpose of considering the action. A written notice of the date and time of the Grievance Hearing will be forwarded to the Supervisor, Department Head and the aggrieved employee. The Appeals Board will consider all written documentation regarding the disciplinary action as well as appropriate oral testimony from the Supervisor and employee or others involved. The Appeals Board may choose to interview other interested witnesses and/or subject matter experts.

It is the responsibility of the Department Head or Human Resources Department to provide written documentation from the employee's personnel file, which pertains to the disciplinary action for review by the Appeals Board.

Based upon the information and testimony gathered during the hearing the Appeals Board will approve, disapprove, modify or rescind the disciplinary action based on the information presented. This decision is to be a majority vote of the empanelled Appeals Board.

The Appeals Board Chairperson will draft a final decision for the Appeals Board review and approval. The final decision is to contain the following: 1) Final ruling and instructions for resolution, if any. 2) Statement that the Appeals Board decision is final and binding. No further action by the Appeals Board or Tribal management is allowed under the Tribal Grievance Policy. An appeal is an internal administration matter. 3) Dated signatures of Appeals Board members.

Appeal Board members are bound by the policies and practices of the Tribe regarding confidentiality and will sign a nondisclosure memorandum of understanding. Members of the Appeals Board will not share information from the appeal with any other person(s) outside of the Appeals Board without the express written permission of the Appeals Board Chairperson. Failure to maintain confidentiality will result in disciplinary action up to and including termination.

9-4. THREATS/DENIAL OF RIGHTS

If an employee is denied the opportunity to present a grievance as prescribed by this section, or if the employee is threatened or subjected to duress when presenting the grievance, the employee may so notify the Tribal Chairman in writing. The Tribal Chairman or designee shall investigate such complaints and initiate appropriate disciplinary action as needed.