

Lower Brule Sioux Tribe

Personnel Management

Policies and Procedures

Originally Approved by the Lower Brule Tribal Council, May 7, 1997

Amended March 2018

**RESOLUTION NO. 2018-102
LOWER BRULE SIOUX TRIBE**

**APPROVE REVISIONS TO THE LOWER BRULE SIOUX TRIBE
PERSONNEL MANAGEMENT POLICIES AND PROCEDURES**

WHEREAS, the Lower Brule Sioux Tribe is a federally recognized Indian Tribe organized pursuant to the Indian Reorganization Act of 1934; and

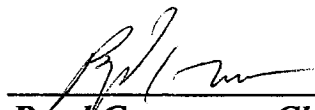
WHEREAS, as empowered by the Constitution and Bylaws, Article VI, Section 1, (e) the Tribal Council as authorized by law to safeguard and promote the peace, safety, morals, and general welfare of the Lower Brule Sioux Tribe and to regulate and conduct of trade and the use and disposition of property upon the reservation provided that any ordinance directly affecting nonmembers of the reservation shall be subject to review by the Secretary of the Interior; and

WHEREAS, a request was received to approve the revisions to the Lower Brule Sioux Tribe Personnel Management Policies and Procedures; and

NOW THEREFORE BE RESOLVED, that the Lower Brule Sioux Tribal Council does hereby approve the revisions to the Lower Brule Sioux Tribe Personnel Management Policies and Procedures (amended February 2018).


CERTIFICATION

The foregoing resolution was duly adopted by the Lower Brule Sioux Tribal Council assembled in Regular Session with a quorum present on the 7th day of March, 2018 by the affirmative vote of five members for, none against, none absent, and none not-voting.



**Boyd Gourneau, Chairman
Lower Brule Sioux Tribe**

ATTEST:



**Orville Langdeau Jr., Secretary/Treasurer
Lower Brule Sioux Tribe**

Policies and Procedures
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Section 01.Introduction

These policies and procedures are based on legitimate authority and seek tribal interests according to a merit system approach.

01.01. Authorities

The primary authority for the tribal council of the Lower Brule Sioux Tribe is stated in the *Constitution and Bylaws of the Lower Brule Sioux Tribe ("CBL")*, Preamble: "We... in order to establish a more perfect tribal organization, promote the general welfare, and secure to ourselves and our posterity the power to exercise certain rights of home rule...do ordain and establish this Constitution..."

One of the enumerated powers of the tribal council is: "To adopt resolutions regulating the procedures of the council itself and of other tribal agencies and tribal officials..." (*CBL*, VI, 1 (h)).

01.02. Tribal Interests

It shall be in the interest of the Lower Brule Sioux Tribe in "promoting the general welfare" to manage employees of tribal agencies, programs or enterprises in such a way as to foster reasonable effectiveness and efficiency in the performance of duties by tribal employees, without, however, disregarding the traditional cultural and established customs of the tribe.

Similarly, it shall be tribal policy as much as possible to provide equal opportunity for employment, pursuant to the stated economic rights of tribal members: "All members of the Tribe shall be accorded equal opportunity to participate in the economic resources and activities without prejudice" (*CBL*, IV, 4 -- although this article refers specifically to election to the council, it is in the interest of the tribe to apply it also to employment opportunities).

01.03. General Approach

In the pursuit of the two stated tribal interests of efficiency/effectiveness and equal opportunity, the general approach of these policies and procedures shall be to establish and maintain a "merit system" of personnel management. "Merit" in this connection shall be understood in general as referring to factors relating to employee *performance and performance criteria or qualifications* rather than to other more subjective, "personal" factors. "Performance" in this sense means observable and/or measurable behaviors on the job.

Section 02. Scope of These Policies and Procedures

The scope of these policies shall be to relate to all persons paid by tribal check, with due regard for equity with other persons working similar jobs in the community.

02.01. Tribal Government Officials

In general, all officials appointed through an elective process shall be expected to follow the basic policies and procedures in matters relating to efficient and effective performance, but not those related to employment category (Section 04), employment (Section 07) or adverse personnel action (Section 12). Conduct of tribal council members shall also be governed by the council's code of ethics, included here by reference.

02.02. Tribal Program Employees

The policies and procedures apply to all employees of the tribe, whether paid out of the general fund or from a grant, contract or indirect cost revenues.

02.03. Tribal Enterprise Employees

These policies and procedures shall apply also to employees of organizations, enterprises or corporations established by action of the tribal council unless expressly stated otherwise in the articles of incorporation.

Section 03. General Policies and Procedures

These policies and procedures shall follow the standards and the regulations regarding special circumstances stated below.

03.01. Standards

03.01.01. "At Will" Employment

All tribal employment shall be considered to be at the will of proper tribal authority and shall not imply an employee's inalienable right to such employment. For instance, in cases of a reduction in funds, necessary reductions in force shall be without tribal liability.

03.01.02. Merit Principle

Employees may not be appointed or promoted to positions without meeting the qualifications stated in the description of the position class or in the formal job announcement. Incumbents in existing positions when these policies are implemented

shall be required to meet stated qualifications within a reasonable period of time before adverse personnel action is taken.

All employee evaluations shall be based on job performance as measured by effectiveness and efficiency, with criteria or expectations clearly stated at the beginning of an evaluation period, not at the time of evaluation.

03.01.03. Fair Labor Practice

It shall be the tribe's policy to treat all employees fairly. Accusations of unfair labor practice shall be addressed according to the grievance procedures described below.

03.01.04. Due Process

All personnel actions, whether adverse or positive, shall follow due process as defined below and complete records of actions and their causes shall be noted in writing and maintained in the employee's permanent file kept in the tribe's personnel office.

All employees of any class, including temporary, part time or trainee workers, shall have a personnel file. All record of causes for adverse action shall be destroyed after five years.

03.02. Special Considerations

03.02.01. "Spoils System"

Tribal employees shall not be subject to the so-called "spoils system," that is, the political practice of newly elected officials of letting existing staff go without due process or cause.

03.02.02. Nepotism

While it is next to impossible to avoid the appearance of nepotism in hiring or promoting in a small tribe such as this, no one shall be hired or promoted to a position supervised by a relative without first meeting the qualifications stated in the class description, the job description or the job announcement. Incumbents in existing positions who do not meet stated qualifications at the time of the implementation of these policies and procedures shall be required to do so within a reasonable period of time.

03.02.03. Political Activity

The clear abuse of authority in a work situation for the purpose either of advancing one person's political campaign or of tearing down another person's reputation or harming his/her campaign shall be cause for adverse personnel action. Accusations of such abuse of authority shall be accompanied with clear evidence and reported in writing to the

employee's immediate supervisor or, in the case of employees without a clear chain of command, to a seated election commission, whose members shall determine the appropriate course of action pursuant to the authorities invested in their commission.

03.02.04. Equal Employment Opportunity

Except as stated below in Section 07.01. For persons younger than 16 years of age, and in Section 07.02. with regard to Indian Preference, the tribe shall not discriminate in hiring against applicants for tribal employment or in promoting or training persons already employed on the basis of age, gender, race, color, religion, tribal affiliation, political preference, national origin or other factors not related to job performance.

03.02.05. Sexual Harassment

The tribe shall not allow or permit persons, whether employees, clients or customers to be harassed in work situations, where "harassment" shall be considered to include:

- the seeking of sexual favors as a condition of employment, advancement, positive evaluation or of receiving program services,
- criticism or ridicule of another based on sexual characteristics or stereotyping,
- continuing to flirt, tease or otherwise take advantage of sexuality after the person being so teased, flirted with or taken advantage of clearly states that the behavior is not acceptable.

Evidence of seeking sexual favors by a supervisor, continuing to engage in harassment behaviors as defined, or failure on the part of supervisors to intervene once notified shall be causes for adverse personnel action.

03.02.06. Alcohol and Drugs

The consumption of alcoholic beverages or the use of any controlled substance in the work place or at a work site during work time shall be strictly prohibited and cause for adverse personnel action. Possession of alcohol or controlled substances on one's person, in one's vehicle or in the work place shall be interpreted as actual consumption or use. No right to improper search of one's person or privately owned vehicle is granted by this policy. A search may be permitted with reasonable cause in accord with standard police procedure.

Employees coming to work under the influence of alcohol or drugs shall not be permitted to remain at work but shall be suspended without pay and subject to further adverse personnel action at the discretion of the person's supervisor.

Further policy statements regarding a drug and alcohol free work place policy shall be found in the appendix to these policies, as stated in the addendum to the tribe's personnel policies which was approved December 12, 1991 (see below).

03.02.07. Smoking

Resolution no. 02-034 declares the tribal administration building a smoke-free building. Designated smoking areas are located outside the building.

Section 04. Employment Categories

Employment categories are distinguished between Probationary and Regular, between Part-time and Full-time, between Non-exempt and exempt, and by reason of classification.

04.01 Probationary/Regular

Newly employed persons, except in the case of exempt employees and persons receiving a lateral transfer, promotion or demotion from another tribal position, shall be considered to be on probation for a period of 90 days. The period of probation shall be considered the final "job test" to determine whether the newly hired employee meets the qualifications stated in the job class description or the job description. Employees under initial probation shall not be eligible for the use of leave credits, but leave credits shall be accrued at the normal rate during the period of initial probation.

At the end of the initial probation, the employee's supervisor shall evaluate the employee's performance using the form required. A copy of the performance evaluation form and a personnel action form shall be submitted by the supervisor to the personnel office, to notify the payroll and benefits offices that the employee has become eligible for both the use of accrued leave credits and participation in the tribe's benefits system.

During the period of initial probation, new hires may be dismissed without the due process required for regular employees, but the personnel action form shall state the evidence that the employee's "job test" has demonstrated the failure to meet stated qualifications. For instance, absenteeism, consistently reporting late for work, and the refusal or inability to carry out the supervisor's instructions shall be considered evidence of a lack of the "basic employability" which shall be considered a requirement for all tribal employment.

All employees who have completed initial probation and have received a positive evaluation shall be promoted without an increase in compensation to the status of a regular employee, with all the rights and duties of regular employees stated elsewhere in these policies and procedures. (Earlier versions of the tribal personnel policies referred to

“permanent” employees; the designation “regular” substitutes for the notion of “permanent” without implying any permanence of an employee’s right to a job.)

Regular employees who are “put on probation” through an adverse personnel action shall continue to enjoy regular employee status except as indicated on the personnel action form.

Temporary employees may be full-time, non-regular or part-time employees.

04.02. Part-time/Full-time

Employees who work thirty two hours or more per week shall be considered full-time employees. Those who are employed to work an ordinary week of less than thirty two hours (exclusive of occasional overtime) shall be considered part-time employees. Part-time employees shall not receive benefits except where the supervisor may allow the use of compensatory time off to make up for hours worked in excess of the time for which the employee has been hired; provided, however, that no part-time employee shall be permitted to accumulate more than a total of 40 hours of work in any one seven-day work week from all tribal employment sources, including work and comp time. Part-time employees shall not be permitted to carry comp time beyond a pay period. Employees classification must be stated on their personnel action form.

04.03. Non-exempt/Exempt

Professional employees and those whose jobs have been classified at or above Job Class Level Six shall be paid as salaried employees and are exempt from standards relating to overtime pay. All other employees shall be considered non-exempt from these standards and shall be compensated at time-and-a-half for hours authorized by their supervisors in excess of 40 hours per seven-day workweek. Hours in excess of eight hours a day but compensated for by time off at another time within any week shall not be considered overtime. Supervisors shall not allow non-exempt employees to work overtime unless money is provided in the program budget governing the activity.

04.04. Job Classes

This classification system is intended to establish a foundation for a compensation system that as far as possible provides equal pay for equal performance.

The performance values, or “factors,” used to distinguish one class of jobs from another are:

1. The “level” of a position in the tribe’s table of organization
2. The extent to which the job performance of a class is required for the accomplishment of the tribe’s goals, whether “critical,” “necessary,” or “helpful”

3. Whether incumbents give or receive supervision
4. Whether the supervision is "general" or "specific"
5. The number and classes of employees supervised
6. Whether professional qualifications or certifications are required
7. The knowledge, skills and abilities needed, whether "potential" (to be acquired by on-the-job training), "entry-level," "ordinary," or "advanced"

Each class in this system is different from the others because it differs in at least one of the seven factors. There are nine non-elective job classes. There is a separate class for elective positions. In it, distinctions are made only by the experience of incumbents, not by the factors listed above.

Caution: Employees with qualifications beyond those defined for the job classes in which they are employed are considered to be performing a job in that class. For example, a lawyer doing work as a plumber or a Ph.D. working as a teacher's aide are considered a plumber or a teacher's aide as far as this system is concerned. Similarly, incumbents working in a job class but not meeting requirements stated for that class will be required to meet the class qualifications within a reasonable period of time. For instance if a valued employee is working a job for which a two-year college degree is required, ample time will be given for the employee to become qualified without adverse personnel action.

Job Classes

There are nine classes listed by level and title. Each description contains a job summary, illustrative duties, examples of jobs in that class (not an exhaustive list), and qualifications in terms of knowledge, skills and abilities.

Level One -- Probationary, Temporary or Part Time Worker

Job Summary: Under the specific supervision of a supervisor, performs tasks assigned.

Illustrative Duties:

- Receives detailed instruction on tasks to be performed
- Requests help of supervisor with problems as needed
- Reports to supervisor when assignments are completed

Examples: TERO, JTPA, Vocational Rehab participant or Summer Youth employees

Qualifications:

Basic employability (willingness to work and to learn; reading, writing and arithmetic skills at an upper elementary level or above; physical ability to perform tasks assigned; ability to get to work regularly and on time; ability to maintain confidentiality regarding private information learned on the job).

Level Two -- Entry-Level Worker

Job Summary: Under specific supervision of a supervisor, performs tasks assigned

Illustrative Duties: Same as Level One Probationary Worker

Examples: Trainee, bus person, unskilled laborer I, laundry worker, grounds keeper, driver I, house keeper, receptionist I, recreation therapist, wait staff

Qualifications:

Basic employability
Knowledge, skills and abilities as demonstrated by successful completion of at least one year of high school

Level Three -- Semi-Skilled Worker

Job Summary: Same as Level II worker

Illustrative Duties: Same as Level II

Examples: Pre-apprentice, laborer II, driver II, child care worker I, cook I, office worker I, Receptionist II

Qualifications: Same as Level II except at least two years of secondary education

Level Four -- Regular Employee

Job Summary: Under sometimes specific, sometimes general supervision of immediate supervisor, performs ordinary tasks of job, plus occasional extraordinary assignments

Illustrative Duties:

Performs ordinary, regular tasks with less than constant supervision
Accepts responsibility for effectiveness and accuracy of work

Performs other duties as assigned

Examples: A Maintenance Worker I, Office Worker II, Cook II, Receptionist, Dealer I, Slots Worker, House Keeper, Child Care Worker II, Janitor I

Qualifications:

Basic Employability

Knowledge: general knowledge of work related requirements as demonstrated
By graduation from high school or by passing the GED exam

Skills: entry-level or ordinary skills (driving, typing, operating machines) required to perform tasks of job or the potential to acquire them by the end of initial probation

Abilities: ability to get along with fellow workers; ability to be courteous and welcoming to clients and/or customers

Level Five-- Skilled Worker

Job Summary: Under the general supervision of supervisor, director or manager, performs ordinary tasks as outlined in job description and other duties as assigned.

Illustrative Duties:

Maintains a schedule of tasks to be performed with due dates
Performs standard tasks, maintaining records of critical incidents, statistics, etc. as required. Submits reports as required. Assists supervisor, director or manager in maintaining or improving effectiveness and efficiency. Performs other duties as assigned.

Examples:

Assistant, Ranger I, Security Officer, Office Worker III, Apprentice Trades Person, Certifier, Cook III, Dealer II, Technician I, Clerk of Courts, Conservation Officer I, Operator I, Janitor II, Maintenance Worker II, Project Leader, Watchman

Qualifications:

Basic Employability

Knowledge: ordinary knowledge of standard procedures related to job; general knowledge of technical aspects of job as demonstrated by the successful completion of specialized training or at least one year of post-secondary education.

Skills: mastery of basic skills associated with performance of standard duties of the job; potential to keep up with advancing technologies

Abilities: basic employability; ability to work as a team with fellow employees;

ability to handle multiple details of job and to maintain order; ability to deal courteously and appropriately with customers and clients .

Level Six -- Master Worker

Job Summary: under general, somewhat infrequent, supervision of director or manager and subject to his/her review, carries out standard tasks of position and takes full responsibility for the effectiveness and efficiency of the work which is helpful or necessary for the accomplishment of tribal goals for the program.

Illustrative Duties:

Performs same kinds of tasks as skilled worker (see Level Four)
Works with little or no direction except for occasional reminders in staff meetings or directions in job description, a manual, and a set of building plans, etc.
Accepts periodic review and evaluation by supervisor, director or manager
Performs other duties as assigned or as needed for proper conduct of program activities

Examples:

Associate Judge, Administrator, A/P Specialist, A/R Specialist, Administrative Assistant, Journeyman Trades Person, Operator II, Technician II, Conservation Officer II, Shift Coordinator, Counselor I, Host/Hostess, Master Worker, Probation Officer, Ranger II, Social Worker

Qualifications:

Knowledge: advanced knowledge of procedures of position; general knowledge such as demonstrated by completion of an associate's degree, a successful completion of two years of post-secondary education or training, or the equivalent of five years or more of job related experience
Skills: advanced skills relating to the job
Abilities: same as for Level Four

Level Seven --Supervisor

Job Summary: under supervision of director or manager, supervises employees, work team or program with eight or fewer employees performing tasks necessary for the accomplishment of tribal goals for the program

Illustrative Duties:

Assumes full responsibility for effectiveness and efficiency of work group or program supervised
Assumes full share of work assigned to the work group or program
Prepares periodic written reports on effectiveness and efficiency as requested by director or manager

Performs other duties assigned or as needed for proper conduct of activities of the program or work group

Examples:

Department Head, Security Chief, Biologist I, Counselor II, Operator III, Supervisor, Technician III

Qualifications:

Knowledge: same as for Level Five

Skills: same as for Level Five

Abilities: same as for Level Five except at advanced level

Level Eight -- Director

Job Summary: under the supervision of an appropriate board, the tribal chairman or a manager, assumes full responsibility for the timely effectiveness and efficiency of the critical program directed and typically having more than eight employees

Illustrative Duties:

Takes tribal goals for the program and translates them into timed, measurable objectives
Develops staffing and resource utilization plan for approval of appropriate authority
Prepares budgets for proper approval and authorizes expenditures within limits of approved budgets
Submits criteria for recruitment of staff to personnel manager for development of job descriptions and posting of announcements
Makes recommendations of job candidates from among those submitted by personnel as meeting posted qualifications
Directs, supervises, coaches, trains all staff as needed
Maintains record of accomplishment of objectives, critical incidents, and other process or outcome problems
Conducts performance reviews as needed but no less frequently than after period of first probation and once a year thereafter
Submits required reports on time
Performs other duties as assigned by proper authority or as needed for proper conduct of program directed

Examples:

Chief Judge, Counselor III, Program Director, Project Director, Assistant Manager, Administrative Director, Contracts and Grants Director, Operations Director

Qualifications:

Knowledge: advanced knowledge of job environment, expectations, typical problems, and solutions that work and of tribal goals and expectations; advanced knowledge such as demonstrated by a bachelor's degree in an appropriate field or equivalent in terms of seven years of related experience

Skills: same as for Level V

Abilities: ability to inspire confidence of tribal authorities; other advanced abilities as for Level V

Level Nine -- Manager

Job Summary: Under general supervision of tribal chairman, council or appropriate board, manages operations in critical areas assigned

Illustrative Duties:

Duties as for director, but with responsibility to answer to highest authority in the tribe

Examples:

Tribal Manager, Casino Manager, Enterprise Manager, Principal, College President, Education Systems Manager

Qualifications: As stated for directors above, except at least ten years of related experience required and some post graduate education in appropriate field preferred

Elective Offices

Job Summary: as stated in tribal constitution or other official document

Illustrative Duties: see job summary

Qualifications: election to office; years in office reflected in pay scale.

Section 05. Compensation

Compensation in the tribe's merit system is based on employee performance as classified above and the compensation system described below. Employer Benefits Contributions shall be computed as part of the employee's compensation.

05.01. Compensation Policies and Procedures

05.01.01. Published Scale

Each position class is compensated at rates listed in the range for that job class. Individual employees' actual pay shall be according to a particular step within the appropriate class range.

05.01.02. Pay Increases

Pay increases shall be given by either or both of the following:

-- in the form of cost-of-living increases applied to the whole compensation scale no more frequently than once a year and requiring a formal resolution of the tribal council after consideration of both federal and local consumer price indexes and the availability of tribal funds; employees are notified by this statement that COLAs are not automatic and, in cases where the consumer price indexes and tribal funds decrease, COLAs can actually be not paid or even reduced.

-- in the form of merit increases given no more frequently than once a year and upon an official evaluation of "exceeded expectations;" merit increases shall be in the form either of a one-step increase within the range of the employee's job class or of a job reclassification approved by the personnel director and reflecting greater responsibility or a higher set of qualifications.

05.01.03. Procedures

All changes in compensation except the application of COLAs affecting the whole scale shall be made using the personnel action form with a written evaluation to be kept in the employee's permanent personnel file. Increases may not be given without adequate funds available in the employee's program budget.

05.02. Employer Benefits Contributions

Benefits paid for by the tribe shall be considered as compensation and may be increased or decreased system-wide by tribal council resolution as budgetary conditions warrant. The principle of "At Will" employment shall apply also to benefits contributed to employees by the tribe.

05.02.01. Eligibility for Benefits

Eligibility for benefits shall be given only to full-time employees who have successfully completed their initial probation. New hires shall have their leave credits begin to accrue from the first day of employment, but credits earned during the initial probation period shall not be used unless the employee successfully completes the probation. Leave credits earned by persons not passing the probation are simply lost.

Annual leave credits earned by regular employees may be transferred to fellow employees paid out of the same program budget with the donor employee's written authorization in

order to help employees who have become incapacitated through accident or illness and have used up their own leave sick and annual leave credits prior to becoming eligible to receive long term disability or social security disability pay. Persons on maternity or paternity leave are not eligible to receive such leave credits donated by fellow employees. Donated leave credits shall be valued at the rate of pay of the donee (receiver of the leave hours).

05.02.02. List of Benefits

05.02.02.01. Leave Benefits

The tribe offers employees the following types and amounts of leave:

a. Tribal Holiday Leave

Tribal holidays are paid also for employees otherwise not eligible for benefits unless they were away from work without their supervisor's permission the day before or the day after the holiday. The approved holidays are as follows:

- January 1 (or December 31 if January 1 falls on a Saturday or January 2 if
- January 1 falls on a Sunday) - New Year's Day
- Third Monday in January - Martin Luther King Day
- Third Monday in February – Presidents' Day
- Good Friday after 12:00 noon
- Easter Monday
- The Last Monday in May - Memorial Day
- June 25 – Lakota Nation Victory at Little Big Horn
- July 4 - Independence Day
- First Monday in September - Labor Day
- Third Friday in September - National Indian Day
- Second Monday in October– Native American/Columbus Day
- Second Monday of November - Veterans Day
- Fourth Thursday in November and the following Friday - Thanksgiving Day

Holidays

- December 24-25 (or the 23rd if the 24th is Saturday and the 26th if the 25th is Sunday) - Christmas Holidays. Days taken off over Christmas other than Those listed may be taken as annual leave with the supervisor's prior approval

b. Annual Leave

Leave credits accrue for regular employees only at the following rates per 80 hours

- Four hours for employees with less than three years service (13 days per year)
- Six hours for employees with from three to 15 years of service (20 days per year)
- Eight hours for employees with 15 or more years of service (26 days per year)

“Years of service” shall mean complete years of full-time, regular employment with the tribe whether continuous or not.

Annual Leave may be taken only for the amount of leave credits actually accrued. That is, there is no advance on leave. No annual leave may be taken without prior approval of the supervisor.

Annual leave is offered to employees as a benefit that helps only if it is used in a timely way. For this reason, no more than thirty days leave (240 hours – Current Federal Standard) may be carried from one fiscal year to the next. Credits accrued but not used in excess of 240 hours at the end of each fiscal year are lost unless, in special circumstances, their use after the end of the fiscal year is approved in advance by the tribal chairman. Persons whose employment is ended by positive personnel action may be paid up to 100 hours of accrued annual leave as severance at the rate of pay being earned at the time of the end of their employment. Those whose employment is ended by adverse personnel action shall lose all annual leave credits accrued up to the point of termination.

Additional annual leave credits continue to be earned while an employee is on annual leave, except in the case where annual leave is taken after available sick leave credits are used up.

c. Personal Leave

All regular tribal employees may use up to 40 hours of paid personal leave per year. Personal leave is not accrued but is available at any time within a fiscal year if authorized by the employee's supervisor and noted on a Request for Leave. Use of personal leave time shall be permitted for court appearances, attendance at a child's school function, application for licenses, personal business or any reason accepted by the supervisor as

legitimate and unavoidable and to conduct personal business which cannot be done on a week end, after work hours or on a holiday.

Personal leave taken without a supervisor's authorization shall be deducted from annual leave credits accrued or as leave without pay if no annual leave credits are available to be used.

Annual and sick leave credits continue to be accrued while a person is on personal leave except in the case where personal leave is used after available sick leave credits are used up.

d. Sick Leave

All regular employees accrue sick leave at the rate of four hours per pay period. Up to 240 hours of accrued sick leave credits may be carried forward from one fiscal year to the next.

To be eligible for sick leave, employees must call in sick or otherwise notify the office on the first day of their illness. Employees away on sick leave for more than three consecutive days shall provide their supervisor with a physician's verification of the employee's inability to perform productively.

Persons who are frequently too sick to work and who are away from work for ten days or more during any fiscal year because of a permanent or frequently recurring health problem but not for more than three consecutive days at any one time shall also be required to present a doctor's statement to verify the legitimacy of the reason for missing work.

Persons away from work because of illness or accident who have used up accrued sick leave credits shall use accrued annual leave and available personal leave credits. Employees may transfer accrued sick and/or annual leave credits to employees within their department, who have exhausted their sick leave credits if the credits are matched by assets in the sick leave escrow account.

If the employee's illness or disability lasts beyond the amount of hours of paid leave available, the employee may be allowed leave without pay for a period not to exceed a total of three months. If in the interim another employee has to be hired to replace an employee on unpaid leave, the tribe shall try to place the disabled employee in a comparable tribal position on his/her return to health but shall not be required to do so if employment is no longer available. Replacement workers filling in for persons on paid leave shall be considered temporary employees hired only till the end of the disabled employee's available paid leave credits.

Sick leave is allowable during the period of initial or other probation.

Further sick or annual leave credits are not accrued while an employee is on sick leave.

Sick leave is considered a benefit for the employee. Sick leave may be used for attending to immediate family illness. Please see Section F under funeral leave for definition of immediate family.

e. Maternity/Parental Leave

Expectant mothers are encouraged to take at least two weeks leave before their presumed due date and at least two weeks after the birth of a child. All available annual, personal and sick leave credits may be used, but leave beyond the accrued credits shall be leave without pay.

Fathers of newborns and adoptive parents with a new child are also encouraged to take up to two weeks leave at the birth or granting of custody of a child, again with accrued personal or annual leave credits if available. After personal and annual leave credits are exhausted, sick leave credits may be used, then as unpaid leave if leave credits are not available.

Parents who take leave as indicated shall notify their supervisors of their intention at least one pay period before the leave is scheduled.

Employees shall not be permitted to baby-sit children, grandchildren or other relatives' children at the work place during work hours.

f. Funeral Leave

Regular employees shall be permitted three days of paid leave on the occasion of a death in their immediate families. Leave taken beyond three days is permitted with the supervisor's approval but without pay unless annual or personal leave credits are available for use. At the death of a member of an employee's "extended family," one day of paid funeral leave shall be granted, with further days if necessary to be charged against accrued annual or personal leave credits.

"Immediate Family" shall include father, mother, child, uncle, aunt, grandparent, sister, brother, sister-in-law, brother-in-law, father-in-law, and mother-in-law. "Extended Family" shall include cousins and others raised in the same family as the employee at the discretion of the supervisor.

Tribal Programs shall remain open unless Tribal Council has granted Administrative Funeral Leave for the entire Tribe.

g. Citizenship Leave

Leave shall be granted to employees to fulfill the civic duties of jury service and voting.

In the case of jury duty, regular employees shall receive full pay for the full amount of time served. A copy of the jury summons must be attached to the Request for Leave notifying the personnel and payroll offices. If an employee accepts pay for Jury Duty they must take leave without pay. Any expense reimbursements for jury duty, such as mileage, are allowable.

All employees are encouraged to vote in tribal or other elections and shall be granted three hours paid leave on Election Day. Part-time and temporary employees shall not be eligible for election leave.

Employees may serve on LBST Tribal boards. Those who serve on boards without pay shall be allowed to attend with full pay, the meetings of these boards scheduled during work hours. Service on LBST boards for which additional pay is given shall be take annual leave or leave without pay.

h. Education/Training Leave

Employees seeking credentials to fulfill qualifications stated for their position shall be permitted to attend classes and training sessions offered at the Lower Brule Tribal College with full pay during work hours at the discretion of the supervisor as long as the employee is getting a passing grade. Employees seeking permission to attend Off-reservation College or other post-secondary institutions shall take annual or personal leave if it takes them away from work. Attending specialized training required by the federal government for a grant or contract program shall be with full pay without the use of other leave credits. If the required training necessitates travel, the employee shall be eligible for payment of travel expenses as stipulated below.

i. Administrative Leave

In cases of snow emergencies or other conditions that require the tribal offices to be closed, employees may be granted administrative leave with pay if granted by the tribal chairman after consultation with a majority of council members. Essential Personnel required to work during Administrative leave shall receive compensatory time at time and a half for hours worked.

j. Essential Personnel

Will be determined by the required duties that must be performed during Tribal Holiday and/or weather conditions.

- Roads Department
- Employment Enterprise
- Facilities Management
- Solid Waste
- Ambulance

- Tribal Police officers
- LBST Rural Water

- I. Closing of Tribal Offices – In the event of Tribal Holidays and/or extreme weather conditions, a determination may be made to close non-essential LBST Office. All regularly scheduled non-essential personnel will be granted administrative leave (excludes any employee on annual, sick or personal leave). A” Essential Personnel will be granted equal leave benefits as determined by the Tribal Manager and Program Directors/
- II. Necessary Leave – If marginal weather conditions exist, a determination may be made to allow use of leave for non-essential personnel. Leave will be defined as leave time that has nt been planned or scheduled in advance. In this case, the Program Directors may grant non-essential employees leave on an individual basis. This leave shall be charged against accrued sick, annual or personal leave. (Personal Leave must be a full day).
- III. Notification Process – CLOSING DURING A NORMAL WORKDAY – The Tribal Chairman and Tribal Manager along with the Superintendent of Schools will make the determination that there is either an Emergency or weather prohibits students and workers from getting to school or work safely. CLOSING PRIOR TO COMPLETION OF A NORMAL WORK DAY/ADMINSTRATIVE LEAVE – An announcement will be made by the Tribal Chairman, Tribal Manager, and School Superintendent using the Calling Tree and following the Lower Brule Sioux Tribe Director’s Calling Tree and weather related Closing. (Revised and updated Each Year).

k. Other Leave of Absence

Regular employees may request a leave of absence for other causes than those stated above but such leave shall be without pay (unless accrued annual leave credits are applied to the leave of absence). Supervisors shall have the discretion to decide whether the leave of absence may be allowed.

If in the interim it becomes necessary to hire a replacement worker, the employee taking the leave of absence shall understand that a qualified replacement worker shall have first preference for the vacated job after one month of the initial incumbent’s absence. The tribe shall attempt to place the returning employee in a similar position if he/she returns after an absence of more than one month from the original job and if the replacement worker has shown that he/she is fully qualified to do the job.

l. Moonlighting Policy

Employees may elect to hold outside jobs as long as: They do not work in an environment that would share any information about their full time job; they meet expected performance criteria; and they do not let the second job interfere with work

requirements and schedules including business travel and additional duties. Employees must understand that this policy restricts against the sharing of business information, even the appearance that there is a conflict of interest.

If an employee's outside work causes problems in any area of work, the full time employer will ask the employee to terminate the second job in order to remain employed by the primary employer.

Moonlighting may lead to performance problems from time to time for various reasons: such as fatigue, partying, taking college classes, and experiencing family discord. Employees must understand and agree to accept the responsibilities of their primary jobs.

Misuse of Tribal property: Some employees work for themselves after hours or even during their shifts, using employer computers, phones, copiers, supplies and other property. Such use is Unauthorized.

LBST Council will consider the ramifications of outside employment and decide if any conflicts arise.

Criteria:

- 1.) Shifts will mostly be 6-8 hours in duration. This may change depending on need.
- 2.) Moonlighters must not have received any unsatisfactory evaluations within the last 12 months.
- 3.) Moonlighters must not be on probation. Anyone who is on probation cannot moonlight until he/she is off of probation and granted permission to moonlight by LBST Council. Typically, the ban on moonlighting last for six months.
- 4.) Moonlighters must have demonstrated satisfactory performance during normal work situations. The program directors or Tribal Manager will make this determination.
- 5.) Moonlighters must have 12 months work experience at their current position.
- 6.) Employees moonlighting without permission will face disciplinary action.
- 7.) The employee's supervisor will approve all moonlighting schedules.
- 8.) Employees cannot moonlight more than 24 hours a week.
- 9.) No Moonlighting is allowed during special work schedules.
- 10.) Any violations to above criteria will result in temporary or permanent loss of moonlighting privileges and corrective action will be taken.
- 11.) Using annual leave to work at a second job will not be allowed. Any time away from regular employment must be approved by the employee's supervisor or Tribal Manager and will be charged as leave without pay.
- 12.) Moonlighting may not interfere in any way with the regular job performance and quality.

05.02.02.02. Risk Management Programs

All regular employees shall be eligible for the standard benefits offered by the tribe and paid for by employer benefits contributions, namely:

- a. Social Security
- b. Workers Compensation
- c. Unemployment insurance, both federal and state
- d. Liability insurance for incidents occurring during the performance of one's job, including vehicle insurance on tribal vehicles and other coverage as stated in the tribal property and casualty policies
- e. Life insurance as specified in the tribal group policy existing at the time of death
- f. Disability insurance if the tribe has an existing group policy
- g. Health and Hospitalization policies as explained in the benefits booklets distributed to employees
- h. Other insurance policies (dental, optometry, etc.) as may be in effect at any time and as explained in the employee's benefits manual, subject to Program Funding.

05.02.02.03. Retirement

- a. All employees, whether regular or not, are eligible for the federal retirement benefits of Social Security, since the tribe pays its share of FICA and withholds the employee share for all employees.
- b. Regular employees shall also be eligible for participation in such other retirement plans as may be offered by the tribe and explained in the manual(s) distributed to employees. Employee matching contribution subject to funding availability per program.

Section 06. Staffing

It shall be the responsibility of managers, directors and supervisors to develop appropriate staffing plans to assure the effectiveness of programs under their supervision.

06.01. Position Authorization

In developing staffing plans, managers, directors and supervisors shall seek the authorization of the tribal council before submitting grant or contract requests. If the

grant request or application to contract is approved as proposed, the council's sign-off on proposals shall constitute full, proper authorization of the positions included in the application. If the approved grant or contract is approved at less or more than the level proposed, a new authorization for staffing shall be approved by the council prior to the posting of positions.

Before developing budgets with personnel compensation, each grant writer or other official doing staff planning shall seek the proper classification of new positions from the tribe's personnel director.

All budget submittals shall provide for the full payment of all positions included in the staffing plan.

Temporary or day labor jobs that are not emergency placements require prior council approval and shall be advertised.

06.02. Encumbrance

Once a program is funded, all personnel costs are fully encumbered as of the time positions are filled. An implied encumbrance shall be estimated by directors at the time a position has been cleared for posting and communicated to the finance director in writing.

06.03. Reduction in Force

If it shall be necessary for a program to function at reduced funding; it shall be understood by all that reductions in personnel may be required. Directors shall notify employees as soon as possible of an impending reduction in force. Employees affected by a reduction in force shall have first preference for all position openings for which they are fully qualified.

Section 07. Employment

07.01. Employment Eligibility

In general, all persons sixteen years of age or older are eligible to apply for full-time, non-hazardous employment with the Lower Brule Sioux Tribe, but persons younger than eighteen who have not finished high school, are in an alternative program or have not received the GED, shall not be eligible for jobs or other employment positions which would conflict with regular school hours. Employment by the tribe shall not be construed as an excuse for not attending an educational program leading to qualifications for tribal jobs.

Nothing in this section shall be interpreted as negating provisions of WIA, NEW, Voc-Rehab, Summer Youth or other youth programs.

carrying out the duties of the position being applied for, such as being unable to be bonded when bonding is required. Persons convicted of either a misdemeanor or a felony shall disclose such information on the application form.

07.02. Equal Employment Opportunity, Non-Discrimination and Indian Preference

It shall be the policy of the tribe, as stated above in Section 03.02.05, not to discriminate against applicants on the basis of factors other than merit (performance and/or demonstrated qualifications) except in the case of two or more applicants who are *equally* qualified and one or more are eligible to be given Indian and/or veterans' preference.

“Equally Qualified” shall mean that, in results from standard, quantified tests required of all applicants, each applicant scores within one standard deviation of each other, and each meets at least the minimum qualifications for the position.

“Indian Preference”

Preference in hiring, promoting and training between two or more *equally* qualified individuals shall mean:

- * first preference shall be given members who are actually residing on or near the Lower Brule Sioux Reservation
- * second to resident spouses or other members of the immediate family of an enrolled member residing on or near the reservation
- * third to members living off the reservation who wish to relocate to the reservation, and
- * fourth to enrolled members of other recognized tribes.

Indian or tribal preference shall not be used in order to select individuals who are not equally qualified. Qualified incumbents already occupying a position, which has not been re-opened, shall not be replaced by others on the basis of tribal or Indian preference.

Veterans' preference among equally qualified applicants shall be applied after consideration of Indian preference as indicated above. A person shall be considered a veteran if he/she has served in the armed forces of the United States and has not been given a dishonorable discharge.

Disabled Native Americans will be given priority among equally qualified applicants after consideration of Indian Preference. A person must prove their disability.

07.03. Appointment and Hiring Policies

07.03.01. Job Announcement

All newly opened positions, whether previously existing but vacant or newly created, shall be publicly announced by posting at the personnel office (central location), tribal administration building reception area, the tribal housing authority, the BIA office, the IHS clinic and the Lower Brule Post Office. In the case of positions at Class Seven or Eight and above, the job announcement shall be advertised also in at least one newspaper of general circulation, together with compensation scale information and the date the announcement or posting closes.

Posting of job openings shall be made by the tribe's personnel manager only. For this reason, only the personnel manager shall have the authority (subject to review by the tribal manager and/or the tribal council) to allocate the position to a particular job class or to state (after full consultation with the program director or supervisor) the qualifications for the position.

07.03.02. Application

To be considered for any opening, each applicant shall fill out a job application on the form provided by the personnel office, in which evidence of the applicant's qualifications for the position shall be provided.

07.03.03. Testing

07.03.03.01. Policies

The evidence of each applicant's ability to meet or exceed the qualifications stated in the announcement shall be subject to some sort of formal testing procedures.

07.03.03.02. Procedures

In the case of knowledge qualifications, such evidence shall consist of official copies of diplomas, transcripts or other certificates of successful completion of an educational program. If specialized knowledge is required for a particular position where standard educational programs do not apply, applicants shall be required to pass tests developed by the personnel office, either in written form or in the form of questions in interviews before a qualified interview panel of at least three persons selected by the personnel manager, one of whom shall be the program director.

In the case of skills qualifications, applicants shall be required to achieve minimum measures of speed (e.g. words per minute) and accuracy (e.g. number of errors) on tests developed by the personnel office for the position applied for.

In the case of abilities qualifications, the personnel manager and/or the interview panel shall judge on the basis of the weight of the evidence submitted by the applicant.

In the case of all qualifications for which tests may not demonstrate full content validity or reliability, success on the “job test” of the initial probationary period shall be considered the final certification of an applicant’s qualifications.

07.03.04. Selection

After completing testing of all applicants, the personnel manager shall submit copies of the applications of all applicants judged to be qualified for the position to the program director for recommendation, which generally should be on the basis of the most qualified. In cases of equally qualified finalists for a position, the preferences stated previously (Indian and/or veterans’ preference as defined and or preference shown to persons returning from approved leaves of absence) shall rule. The final selection of all regular employees shall remain the prerogative of the tribal council. Emergency placements may be made between council meetings with the convenience of the tribal chairman.

07.03.04. Transfer and Promotion

Incumbents in existing tribal positions shall be permitted to apply for all openings posted. If selected for a position in the same class as the position, from which he/she is transferring, the person so transferred shall be given no increase in compensation. If selected for a position in a higher class, the person promoted shall be given an increase of no more than one step in the range of the class of the position to which he/she has been promoted.

All incumbents seeking transfer or promotion shall give formal notice to their supervisors at the time they submit their application. The incumbent’s position shall not be posted, however, until after the incumbent is selected (but before he/she is appointed) for the new position.

08. Work Day

The work day for all tribal employees shall consist of eight hours on task measured *either* from 8:00 a.m. until noon and from 12:30 until 4:30 p.m. *or* on an eight-hour shift with (a) break(s) totaling one half hour designated by the supervisor to meet the particular requirements of the job.

Time on task in excess of 40 hours in any seven-day week shall be considered overtime. Exempt employees are not paid for overtime.

Overtime worked by non-exempt employees in one week may, at the discretion of the supervisor, be compensated for by time off within the same pay period. But overtime worked and not compensated for by time off during any one-work week shall be compensated for at a rate of “time-and-a-half.” Non-exempt employees shall not be

worked and not compensated for by time off during any one-work week shall be compensated for at a rate of "time-and-a-half." Non-exempt employees shall not be permitted to work overtime unless budgetary resources are available and are approved to pay the employees earning overtime. Failure to stay within approved personnel cost budget lines of a particular program shall be cause for adverse personnel action against the responsible supervisor or director.

Employees working shifts in essential programs on days which are paid holidays for all tribal employees (except those working in profit making activities which are not making a profit) shall also be paid time and a half.

Section 09. Payroll Administration

09.01. Attendance and Time-Keeping

Full and accurate time and attendance record keeping shall be the joint responsibility of both the employee and his/her supervisor. The cognizant director only shall retain keys or other access to time clocks. In the absence of a punch in time clock, employees shall sign in and out on a time record maintained at the place of employment.

For non-exempt employees, only hours on task shall be recorded. A full pay period shall consist of two 40-hour weeks, or one 80-hour pay period. Time away from work (hours less than 80 for a pay period) shall be identified as leave without pay or as paid leave on each person's time sheet, with the nature of the paid leave taken during any pay period noted on a leave approval form submitted with the time card.

Pre-approved travel time away from the work site shall be accounted for on the tribe's travel forms, a copy of which shall be submitted with the time record.

09.02. Time Sheet Submittal

It is a Directors responsibility to ensure that all timesheets are accurate and leave hours are accurately tracked on the timesheet. Time cards/time sheets signed by the employee and counter-signed by his/her supervisor shall be submitted for each pay period to the tribe's payroll office. The time cards shall cover the ten days preceding the Wednesday before pay day and shall be submitted no later than noon on the Wednesday before pay day. Payday will be every other Friday. If Friday of pay week is a holiday, payday shall be the last working day before then and time records shall be submitted by noon of the day before payday.

Each time record, whether for exempt or non-exempt employees, shall state the nature of any leave taken during the pay period.

Pay will be given only for hours-recorded on time cards or approved time sheets or supported by leave or travel approval forms. There will be no exceptions to this policy.

All pay checks, check stubs, or direct deposit slips shall be individually sealed in envelopes prior to disbursement by the payroll department.

Paychecks shall be picked up by supervisors no sooner than 3:00 p.m. on payday. In the absence of their supervisor, employees may pick up their own paychecks from the tribal management office at 3:30 p.m. on payday.

Employees utilizing direct deposits will have their deposit submitted to their bank by Thursday midnight.

09.03. Payroll Deductions

No deductions from payroll shall be made without employee authorization or a garnishment order from a court with jurisdiction over the employee. It shall be understood that employees authorize deductions for federal income tax withholding, Social Security (FICA) and Medicare by filling out and signing the W-4 form. No employee shall be put on the payroll without submitting a signed W-4 and form I - 4.

Deductions for payments for housing, loan repayment, repayment of travel or payroll advances, tribal services, tax-sheltered annuities, other insurance premiums, electricity bills, etc. shall not be considered deductions in computing "take home" pay for purposes of personal budgeting, eligibility for participating in government programs or credit applications.

Other payroll deductions may be granted if the employee has completed the ninety-day initial probationary period and submits a deduction request when time sheets are due. Deduction request forms are available from the payroll office.

No payroll deductions shall be granted in cases where total deductions exceed 50% of gross pay. Payroll deductions for Rent, Electricity, and other necessities shall not count towards the total gross pay. If a situation arises where the 50% needs to be waived, the payroll department shall obtain written permission from the Tribal General Manager.

Changes in dependents or participation in the tribe's benefits program (especially the tax-sheltered annuity plan) must be documented by a new W-4 or a properly submitted change of deduction request and/or personnel action form.

09.04. Pay Advances

Employees may request pay advances only for emergency reasons, such as a death in the family or similar emergency.

Requests for advances for part time or temporary workers can only be made for hours worked and permanent full time workers can request up to 80 hours provided they have sufficient leave to cover the time. Request for advance shall be made on the form

available in the payroll administration office. Requests shall be signed by the employee, and the supervisor and then submitted to the Tribal General Manager for approval.

Section 10. Travel Policies and Procedures

10.01. Travel Authorization

All non-local travel shall require the prior approval of the General Manager or in his/her absence, the approval of a Tribal Council Member. The General Manager may authorize up to five days of non-local or local travel which relate to an employee's program activities and/or is in the tribe's interest; provided, however, that the General Manager may in his/her discretion authorize a longer period of such travel where non-authorization would likely result in loss of time or effectiveness or money that is contrary to the tribe's interests.

Requests shall be submitted in writing explaining the purpose of the travel no less than ten days prior to the departure, ten days prior to the purchase of travel tickets, or ten days prior to making reservations, whichever comes first. Emergency situations will be considered as they arise.

"Non-Local" travel shall be understood as any travel outside of LBST Reservation boundaries. Travel on the reservation related to one's work shall not require approval.

10.02. Payment of Expenses for Authorized Non-Local and Local Travel

It shall be the policy of the tribe to pay for all authorized non-local and local travel. The tribe shall not pay for employee travel taken without proper authorization. The tribe also shall not be liable for expenses of on-reservation travel even if it is related to one's program or is in the tribe's interest.

Expenses of tribal employees who travel on tribal business shall be paid on the following basis:

10.02.01. Use of Privately Owned Vehicle ("POV") or Program Vehicle

Expenses of employees who use a POV for authorized local or non-local travel shall be paid at the current GSA mileage rate or the rate of commercial air travel if mileage costs exceed it. Mileage shall be documented by odometer readings or be paid at the rate of published distances between cities according to the schedule retained in the tribal travel office.

Only out-of-pocket expenses (such as gas, oil, emergency repair, etc.) documented by receipts shall be paid or reimbursed when employees use a tribal or program vehicle for authorized travel. No employee shall be permitted to operate a tribal vehicle without a current, valid license.

There will be adverse personnel actions for any fraud or deception.

10.02.02. Use of Other Means of Transportation

Payment shall be on the basis of actual cost documented by receipt. Choice of carrier or of means shall ordinarily be the least expensive (e.g. air fare arranged at least ten days in advance is much less expensive than later reservations). Travel by first class if chosen by the employee shall be paid for only at the rate for less than first class accommodations, the balance being the personal responsibility of the employee. Similarly, if an employee travels to an approved location by a more expensive indirect route for personal business or pleasure, the tribe shall be liable for the expenses of only the direct route. The least expensive means of travel need not be chosen where loss of time or effectiveness is disproportionate to the savings realized.

If travel tickets have been charged to a tribal program and the employee changes travel plans for his/her own convenience and purchase new tickets, the tribe and program shall not be liable for the added costs. If the employee decides not to attend after travel is prepaid, the employee will be responsible for the cost of cancellations.

10.02.03. Per Diem Expenses

Daily living expenses during approved local travel and expense rates for approved non-local travel shall be paid at the published federal rate, with due regard for "high-cost" areas identified by the federal government.

Miscellaneous costs for taxi fares, telephone, Xeroxing and similar expenses while on approved travel shall not be considered part of the per diem rate and may be reimbursed upon return to work by submitting receipts.

10.02.04. Payment of Travel Expenses

Travel expenses shall be paid either by advance for travel or by reimbursement after the approved travel. Advances for travel are issued through the accounts payable system.

Advances must be requested at least ten days in advance of the time of departure on the form available in the tribal management office, provided that the required ten-day advance request may be waived when denial would likely result in loss contrary to the tribe's best interest.

Upon return from travel for which an advance has been provided, the employee shall complete a travel voucher and attach receipts and submit them to the travel office. Failure to submit the voucher and receipts within one week or it shall result in the advance being set up on the tribe's general ledger as a receivable and a payroll advance to

be repaid from the employees' next payroll check. Any diversion from this shall need approval from the Tribal General Manager.

Reimbursements shall be paid for approved employee travel upon the completion of the travel voucher and the submission of receipts. Travel overpayment not returned vouchers shall be deducted from the employees' next payroll check. Any diversion from this shall need approval from the Tribal General Manager.

Section 11. Communications and Control

It shall be the policy of the tribe to require managers and directors to communicate expectations to employees reporting to them and to set up and exercise controls regarding their performance.

11.01. Management Responsibility

Managers and directors shall be responsible for the following management functions:

11.01.01. Communicating Expectations to Employees

At the beginning of each contract, grant or fiscal year, managers and directors shall communicate fully to employees working in their area of responsibility the tribal interests involved, the goals of their program, short term objectives, due dates for beginning and completing named processes and hoped for outcomes, products or other measurable results as defined in their work plan.

In many cases, completion of the work plan shall require specific training of employees. Training plans shall be communicated to employees with other expectations.

At this same time, managers and directors shall also communicate to employees the personal expectations on which their periodic evaluations will be based.

11.01.02 Control Policies

To exercise control over performance, managers and directors shall be responsible for the following managerial functions as they relate to their own programs:

11.01.02.01. Planning

With an eye to constraints and opportunities presented to them in the environment(s) affecting their program, managers and directors shall develop written plans updated yearly stating tribal interests, program long term goals, short term measurable objectives, methods or processes to be employed in accomplishing goals and objectives and specific

outcomes or results hoped for. Plans should also identify possible other outcomes to avoid, if possible, unforeseen and unacceptable consequences.

11.01.02.02. Organizing

In implementing the work plan, managers and directors shall organize their physical and personnel resources so that the equipment and supplies needed are available in a timely manner and an appropriate staffing plan is implemented as necessary.

11.01.02.03. Directing

Managers and directors shall make sure they provide as clear and specific directions to employees as necessary for them to understand both what they are to do and how to do it. Since most failure to perform results from not understanding what to do or how to do it, managers and directors shall be careful to notice gaps in employee knowledge, skills or abilities and be ready personally to provide training or to arrange it from other available sources.

11.01.02.04. Supervising

Managers and directors shall supervise (“oversee”) employees in the performance of the tasks assigned. Such supervision need not be detailed and specific in the case of most experienced, journeyman and master workers, but managers and directors shall continue to coach employees as necessary to assist them in improving performance.

11.01.02.05. Coordinating

Managers and directors shall maintain an overview of the total operation of their programs in such a way as to integrate the varied functions and activities of employees into a harmonious whole. In most cases this can be done by developing a team management style featuring both specialized skills, cross training and frequent, short, informal staff meetings in which employees share what they are working on with each other.

11.01.02.06. Reviewing

Managers and directors shall periodically, but no less than once each quarter, review (and adjust as necessary) the year’s work plan, testing whether processes were begun and operated as planned, whether inputs such as funds draw-downs were realized as scheduled and whether short term objectives were achieved as projected. In conducting these reviews, managers and directors shall take note of problems that have arisen, discuss them in so far as possible with employees and take corrective action to improve both program and individual employee performance.

11.01.02.07. Budgeting

Managers and directors shall be responsible for projecting program revenues and expenses in time each year for the tribal council to review and approve them as needed for the timely submittal to external or internal authorities.

It shall be their further responsibility to manage both encumbrances and cash payments in such a way as to avoid both over-expenditures and inappropriate under-expenditures. To assure their review of monthly budget status reports, they shall be required to return to tribal management a signed, fully annotated copy of the status report explaining inappropriate or unanticipated variances.

11.02. Policies and Procedures for Employee Performance Evaluation

11.02.01. Evaluation Criteria

Evaluation of employees shall concern itself only with actual job performance and not with personal matters unrelated to job performance. The criteria for judging employee performance shall include the standards included in these policies and procedures and the expectations specified in the performance plan communicated to the employee at the beginning of each evaluation period.

11.02.02. Evaluation Ratings

Employee performance shall be rated in terms of expectations, whether they were unmet, met or exceeded.

11.02.03. Procedures

Managers and directors shall be responsible for evaluating employee performance by following the procedures stated below.

11.02.03.01. Critical Incident

Managers, directors and all supervisors shall maintain a file with reports of all "critical incidents," which shall be the basis for deciding whether expectations were met or exceeded. For purposes of this procedure, a "critical incident" shall be defined as observable employee behaviors, incidental or continued, which contribute significantly either to advance or to hold back tribal interests or program goal and objectives or give evidence that the employee is giving extraordinary effort to meet expectations or is failing to do so. "Critical" accordingly refers to the weight of such incidents in helping to form judgments. Critical incidents can be positive or negative -- both important in giving evidence for the evaluation of performance.

11.02.03.02. Evaluation Periods

There are four evaluations of employee performance:

11.02.03.02.01. The Evaluation at the End of the Initial Probation of Ninety Days

Supervisors, directors and managers shall conduct a formal evaluation of the job performance of newly hired employees and shall submit to the personnel office a written appraisal of the extent to which the employee has shown that he/she possesses the qualifications specified in the job announcement. Employees occupying a new position by reason of lateral transfer or promotion shall also require certification by the supervisor, director or manager that he/she is qualified in this way. The initial evaluation shall become a part of the employee's permanent record.

11.02.03.02.02. The Evaluation at the End of Adverse Probationary Status

Employees who have been put on probation by reason of an adverse personnel action (see below) shall, upon completing the period of probation, be formally evaluated by the person who placed them on probation in the first place. The evaluation shall appraise to what extent the employee has corrected the unacceptable performance for which he/she has been placed on probation. A copy of the written evaluation shall be submitted to the personnel office attached to the personnel action form indicating the end of the probation.

11.02.03.02.03. Annual Evaluation

Each year in the first two weeks of September each employee shall be evaluated on his/her job performance during the previous twelve months or portion of the year. A copy of the evaluation form shall be attached to the personnel action form recommending *either* no increase in compensation for "expectations unmet" and "expectations met" *or* a one-step increase in range for "exceeded expectations."

11.02.03.02.04. Evaluation at Termination

Each employee terminating employment for whatever reason shall be given a general evaluation by the official most knowledgeable about his/her job performance. This evaluation is a global appraisal of performance and will have one of three recommendations -- "would not recommend" rehire for the same job class, "would recommend with qualifications" (which should be noted) and "would recommend without qualification." A copy of this evaluation should be attached to the personnel action form and retained in the employee's permanent personnel file. The adverse recommendation not to rehire shall be deleted from the personnel file after a period of five years from the date of termination.

Section 12. Personnel Actions

Personnel actions shall be initiated by the employee's immediate supervisor and may be either favorable or adverse. All personnel actions shall be communicated on the tribe's personnel action form.

12.01. Favorable Personnel Actions

12.01.01. Appointment

Appointment by new hire, transfer or promotion shall be initiated by the manager or director with the compensation level determined by the personnel director, subject to the director's review. If there is a discrepancy between the director's desires on compensation and the program budget, the matter shall be deferred to the General Manager for resolution.

12.01.02. Change of Status

Completion of the initial probationary period and change of status to regular, increase of status from part time to full time, reclassification of one's job, lateral transfer, and promotion to a new job class shall require notification to the personnel office.

Increase in compensation upon satisfactory completion of the initial probationary period shall be allowed only if the newly hired person were paid below the level appropriate for the job and advertised on the job announcement.

Application of COLAs to the whole compensation system shall not require the initiative of directors or managers or notification to the personnel or payroll office.

12.02.03. Merit Increase

Recommendations for merit increases are made by directors and managers upon the finding of "exceeded expectations" on the annual performance review. Such recommendations are dependent on availability of funds and as such require sign off on the part of the personnel director after consultation with the finance manager.

12.02. Adverse Personnel Actions

12.02.01. Due Process

Adverse personnel actions shall not be taken unless a clear process is followed: Verbal Warning, Written Warning, Suspension, Plan of Action, Termination.

12.02.01.01 Immediate Termination for Cause

Directors and Managers may terminate an employee immediately and without warning for any of the following causes; which may include, but not limited to:

- * Behavior causing physical harm to others
- * theft of tribal resources or neglect of responsibility for resources resulting in theft
- * gross neglect of duty resulting in danger to other employees, clients or customers
- * fighting or engaging in violence, except in self defense
- * sexual harassment
- * violation of the tribe's policy for a drug free and alcohol free work place
- * falsification of employment application, time card or other personnel record

Employees terminated for cause may not receive severance pay. Employees terminated for cause shall be permitted to file a grievance using the process outlined below (12.02.01.03).

12.02.01.02. Process for Other Adverse Personnel Action

In cases of unacceptable performance or other employee actions harmful to the tribe's interests or the achievement of program goals and objectives, directors and managers shall:

- * first, give the employee a *verbal* warning stating that continuation of the inappropriate behavior or poor performance could result in termination. The director should document and file record of verbal warnings.
- * second, give the employee a *written* warning, with a copy to the critical incident file
- * third, take action to put the employee on probation, or if the behavior is serious enough, on suspension without pay or even termination; such action requires also notification of the personnel director and a copy in the employee's personnel file. Failure to meet the terms of probation shall result in dismissal. Continued failure to meet expectations after return from suspension shall also result in dismissal. The Director will do everything they can to work with employees.

All three actions should be filed with the Personnel Department.

Employees terminated after due process as described may not be given severance pay.

12.02.01.03. Grievance Procedures

Refer to Administrative Grievance Policy approved by LB Sioux Tribal Council 9/04/01.
(See Appendix III)

If the aggrieved employee wins a reversal of adverse personnel action in which he/she had been suspended without pay or terminated, the employee shall be entitled to lost wages. If an aggrieved employee is reinstated and paid for lost wages, the program shall pay the cost of a replacement worker.

12.02.01.04. Reinstatement

Terminated employees may apply for any position opening and may be reinstated after demonstrating basic employability. Reinstatement in the position from which they were terminated shall be permitted at the discretion of the immediate supervisor after the terminated employee reapplies to the posted position.

12.03. Resignation and Retirement

Employees who terminate their employment voluntarily by resignation or retirement shall give notice to their immediate supervisors as follows:

- * for incumbents in positions in classes one through six, two weeks' notice
- * for incumbents in positions in classes seven or eight, four weeks' notice.

Resigning and retiring employees who give such notice shall not be paid severance pay except for accrued leave. Employees who resign or retire without giving notice shall not be given accrued leave payout.

Section 13. Other Matters of Concern

13.01. Work Place

The work place shall not be used to gossip or cause friction between groups. All employees are required to maintain confidentiality concerning personal or private matters. Decisions regarding advances, small loans or other grants shall not be treated as public information.

13.02. Use of Tribal Property

Employees are not permitted to use tribal property as their own. This pertains to the use of tribal or program vehicles, other equipment and supplies. Violation of this policy may lead to adverse personnel action.

All inventions, writings, or other intellectual property developed in the performance of one's duties in a paid position shall remain the exclusive property of the Lower Brule Sioux Tribe.

13.03 Gambling

Employees shall not be permitted to gamble during work hours except while on lunch break or on leave status.

Appendix One

Drug and Alcohol Free Work Place Policy

Policy Objective

The Lower Brule Sioux Tribe has a strong responsibility for the health, safety and well-being of its employees, their families and the persons served by tribal programs. The Tribe wants to do all it can to provide a safe workplace free of risks created by alcohol and drug abuse.

Condition of Employment

Upon the occurrence of the later of (a) the date of an individual's application for employment with the Tribe or (b) the date of enactment by the Tribe of these Drug and Alcohol Testing Policies, it is a condition of employment with the Lower Brule Sioux Tribe that each employee of the Tribe shall agree to comply and shall comply with the terms of these Drug and Alcohol Testing Policies. Through his/her acceptance of the position of employment with the Tribe, the employee accepts that these Drug and Alcohol Testing Policies are part of the rules and regulations of the Tribe, in the same way that the salary structure is part of the rules and regulations of the Tribe.

Condition of Service as an Elected Tribal Official

After a duly elected candidate for an elective tribal office has been sworn in and has commenced his/her official duties, he/she then for the first time as an elected tribal official shall agree to comply and shall comply with the terms of these Drug and Alcohol Testing Policies, and he/she then for the first time as an elected tribal official shall become and shall be subject to the terms of these Drug and Alcohol Testing Policies. Through his/her acceptance of election to the tribal office through taking the oath of office and commencing official duties, the elected tribal official accepts that these Drug and Alcohol Testing Policies are part of the rules and regulations of the tribe for its elected officials, in the same way that the salary structure is part of the rules and regulations of the tribe for its elected officials.

Scope

These policies shall apply to all current employees of the tribe, both full time and part time. All new hires of the tribe must undergo initial testing and test negative as a condition of being placed in a tribal job, After a duly elected tribal officer has been sworn in and has commenced his/her official duties, these policies shall apply to that elected official.

Definition

“Safety Sensitive Function” or simply “Sensitive Function” –any duty performed that they may place another individual at risk. Typical situations involve the use of tools and machinery, driving a vehicle, making decisions, use of judgment, dealing with clients or delivery of materials.

Controlled Substances

Controlled Substances include marijuana, opiates, cocaine, “crack,” “crank,” amphetamines and methamphetamines, phencyclidines, LSD and unprescribed pain killers and combinations of these or other new drugs having hallucinogenic or other function-impairing properties, including synthetic drugs.

Misuse of alcohol is also regulated by these policies.

Prohibited Use, Manufacture, Distribution or Sale

Supervisors shall not knowingly permit an employee to report for work while under the influence of alcohol or any controlled substance. No supervisor shall allow an employee to perform a safety sensitive function within twenty-four hours of alcohol use or to possess alcohol or any controlled substance while on duty.

The one exception to the use of alcohol may be in the instance of an employee taking a medication prescribed by a physician that contains a controlled substance or alcohol, provided, however, that the use of such medication may not adversely affect the employee’s job performance.

No officer or employee of the tribe shall be permitted to manufacture, distribute or sell any controlled substance during performance of job-related duties. The obvious exceptions to this rule are bartenders or wait staff at an establishment offering alcoholic beverages for sale.

Searches

As a condition of employment, each current or prospective employee shall be required to sign a consent to search. Refusal shall result in termination or withdrawal of a pending job offer.

As a condition of holding an elected tribal office, each elected tribal official-after being elected, taking the required oath, and commencing official duties-shall be required to sign a consent to search. Refusal to sign a consent to search shall compel the personnel manager to provide written notice to the Lower Brule Sioux tribal Council of the elected official’s refusal to sign the consent to search. The personnel manager shall serve that required written notice upon the tribal council within 10 tribal business days after the elected official’s refusal to sign the consent to search.

Pursuant to the Constitutional and other lawful authority of the tribal council, including but not limited to Section 1 (g through j) of Article VI of the Constitution and Bylaws of the Lower Brule Sioux Tribe (LBST Const. Art. VI, Sec.1(g-j)), the tribal council declares that the refusal of an elected official to sign the consent to search is prima facie evidence of gross incompetency pursuant to LBST Const. Art. V, Sec. 5(a) (1) (as amended, if applicable), and is prima facie evidence of public conduct so as to question the integrity or endanger the Lower Brule Sioux Tribe or its members pursuant to LBST Const. Art.V, Sec. 5(b) (3) (as amended, if applicable).

The tribe reserves the right to conduct unannounced search for controlled substances or alcohol in tribal facilities or vehicles used in performing a job function when there is, in the judgment of tribal authorities, reasonable suspicion that prohibited possession, use, distribution or sale may be occurring.

Required Testing

There are four circumstances requiring testing:

- Pre-employment – every person selected for a job, position or office shall test negative on tests for controlled substance.
- Random – all persons performing safety sensitive functions shall be tested at random times at least once each quarter of the year; when employees performing sensitive functions are tested, a random selection of the rest of the tribe’s employees shall be also required to undergo testing.
- Post-accident – when there is an accident on the job with property damage but no personal injury or whenever an injury does occur that is reportable by law to worker’s compensation, each employee involve must be tested for alcohol within 2-8 hours of the accident and for controlled substances within 32 hours.
- Reasonable suspicion – when a trained supervisor has reasonable suspicion of a violation, the employee shall be required to undergo testing; the supervisor’s determination shall be based on observation of employee’s appearance, behavior, speech, breath or body odor. The supervisor shall write a report of the incident ad maintain it in the employee’s critical incident file.

Refusal to submit

Employees shall be judged to refuse to submit to testing if:

- They actually refuse to undergo testing.
- They are unable to produce urine, within two hours of request.
- They cannot breathe properly.
- They provide false information.
- They fail to report for testing at the required time.

Consequences

- Refusal to submit shall be considered the same as a positive test.

- Any positive test prior to employment shall result in the person not being placed in position even after having been selected.
- Any positive test in the case of any already-employed employee shall result in immediate suspension without pay until or unless he/she accepts referral to the tribe's Employee Assistance Program (EAP) or Counseling Program and carries out the prescribed treatment regimen.
- Employees may do a self referral to the tribe's EAP without adverse consequences unless they test positive on subsequent testing.
- If an employee tests positive a second consecutive time even after a program-required referral to EAP and/or the Counseling Program, he/she shall be terminated without being eligible for rehire for at least three months of proven sobriety or freedom from drug abuse.
- If an employee appears at work for his/her daily routine under the influence of alcohol, they will be suspended without pay and sent home immediately until or unless he/she accepts referral to the tribe's Employee Assistance Program (EAP) or Counseling Program and carries out the prescribed treatment regimen.

Payment

The tribe or the tribal program will pay for one pre-employment test, for all random testing and or one post-accident test. Subsequent tests shall be paid for by the employee, for which the employee may use any partial or complete coverage from insurance or other non-tribal subsidy.

Record Keeping

The personnel office shall retain all records of tests and incident reports in the employee's confidential personnel file for five years following the reporting. Each year the personnel manager will purge records from the personnel file that are more than five years old.

Test Findings

There are three possible findings on urine testing: Positive, negative and negative but "Dilute Sample".

If an employee tests positive, this means that a prohibited substance has been identified in the urine sample and the adverse consequences stated above will apply.

If an employee tests simply "negative", there are no adverse consequences.

If an employee's test comes back negative but "Dilute Sample", this means that no prohibited substance has been identified at positive levels but that the creatinine level has been determined to be less than that of normal urine. With a finding of "Dilute Sample", the employee shall be required to retest. The employee should eat a normal breakfast and drink a glass of fruit juice and present himself/herself for testing without urinating between 9:00 and 10:00am. If this second test comes back "Dilute Sample", the employee shall be required to get a medical examination to see if there is some medical explanation for the low creatinine level.

If no such explanation can be given, the employee will have to submit to the same consequences as for a positive test finding.

Appendix II

Compensation System

This scale is intended as a companion to the classification system covering all the employee positions in the tribal organization, including enterprises except for the Farm Corporation.

Each employee currently on the payroll is to be located at the range associated with their job class and at the step which is the closest equivalent of their current salary or the next highest. Adjustments of compensation for the reclassification of a position to a higher class (i.e., because of the more equitable classification of the position according to the new system) would locate the affected employee at the first step of the new range.

For the new compensation plan to be implemented, necessary adjustments to existing or proposed budgets may have to be calculated by directors and managers and submitted to the council for review and approval, although almost all employees would be paid at their current rates which would be located along the new scale.

Raises would be given only once a year for cost of living increases (if approved ahead of time by the council) and/or a one-step raise for evaluation of "exceeded expectations."

Each employee class relates to a level or range for that class. Level One has only three steps. Each of the other levels has ten steps.

Employees at step ten in each class would not be able to receive a step increase. The only way they can receive a merit increase is by accepting responsibilities or demonstrating qualifications of a higher class, in which case their position would be re-classified.

Levels One through Five are Non-Exempt, i.e., hourly wage earners. By law they would be eligible for time-and-a-half for overtime (if in their budget). Annualized figures are shown for purposes of comparisons internally and externally.

RANGES & STEPS

<u>Level 1</u>			
Steps		Hourly Wage	Annual Pay
	1	\$7.25	\$15,080.00
	2	\$7.69	\$15,992.27
	3	\$7.84	\$16,302.80

Level 2

1	\$7.25	\$15,080.00
2	\$7.84	\$16,302.80
3	\$8.06	\$16,768.60
4	\$8.29	\$17,234.39
5	\$8.51	\$17,700.18
6	\$8.73	\$18,165.98
7	\$8.96	\$18,631.77
8	\$9.18	\$19,097.57
9	\$9.41	\$19,563.36
10	\$9.63	\$20,029.16

Level 3

1	\$8.51	\$17,700.18
2	\$8.81	\$18,321.24
3	\$9.11	\$18,942.30
4	\$9.41	\$19,563.36
5	\$9.70	\$20,184.42
6	\$10.00	\$20,805.48
7	\$10.30	\$21,426.54
8	\$10.60	\$22,047.60
9	\$10.90	\$22,668.66
10	\$11.20	\$23,289.72

Level 4

1	\$8.58	\$17,855.45
2	\$8.96	\$18,631.77
3	\$9.33	\$19,408.10
4	\$9.70	\$20,184.42
5	\$10.08	\$20,960.74
6	\$10.45	\$21,737.07
7	\$10.82	\$22,513.39
8	\$11.20	\$23,289.72
9	\$11.57	\$24,066.04
10	\$11.94	\$24,842.36

Level 5

1	\$10.45	\$21,737.07
2	\$11.05	\$22,979.19
3	\$11.64	\$24,221.31
4	\$12.24	\$25,463.42
5	\$12.84	\$26,705.54
6	\$13.44	\$27,947.66

7	\$14.03	\$29,189.78
8	\$14.63	\$30,431.90
9	\$15.23	\$31,674.01
10	\$15.83	\$32,916.13

 EXEMPT POSITIONS (Hourly rate is liste for computing pay roll)

Level 6

1	\$11.94	\$24,842.36
2	\$12.69	\$26,395.01
3	\$13.44	\$27,947.66
4	\$14.18	\$29,500.31
5	\$14.93	\$31,052.96
6	\$15.68	\$32,605.60
7	\$16.42	\$34,158.25
8	\$17.17	\$35,710.90
9	\$17.92	\$37,263.55
10	\$18.66	\$38,816.19

Level 7

1	\$13.44	\$27,947.66
2	\$14.48	\$30,121.37
3	\$15.53	\$32,295.07
4	\$16.57	\$34,468.78
5	\$17.62	\$36,642.49
6	\$18.66	\$38,816.19
7	\$19.71	\$40,989.90
8	\$20.75	\$43,163.61
9	\$21.80	\$45,337.31
10	\$22.84	\$47,511.02

Level 8

1	\$17.92	\$37,263.55
2	\$19.56	\$40,679.37
3	\$21.20	\$44,095.20

4	\$22.84	\$47,511.02
5	\$24.48	\$50,926.85
6	\$26.13	\$54,342.67
7	\$27.77	\$57,758.50
8	\$29.41	\$61,174.32
9	\$31.05	\$64,590.15
10	\$32.70	\$68,005.97

Level 9

1	\$26.87	\$55,895.32
2	\$28.74	\$59,776.94
3	\$30.61	\$63,658.56
4	\$32.47	\$67,540.18
5	\$34.34	\$71,421.80
6	\$36.20	\$75,303.42
7	\$38.07	\$79,185.04
8	\$39.94	\$83,066.66
9	\$41.80	\$86,948.27
10	\$43.67	\$90,829.89

Appendix III Administrative Grievance Policy

Statement:

- (1) Applicability – This policy shall be applicable to only full-time contract, non-probationary status employees of the Lower Brule Sioux Tribe.
- (2) Purpose – The purpose of this policy is to provide a formal procedure for the consideration and resolution of grievances for the Lower Brule Sioux Tribe employees.
- (3) Statements of policy
 - A. The Lower Brule Sioux Tribe recognizes and encourages use of informal discussions between employees and their supervisors as a means to resolve grievances. This policy is not intended to be used until it is apparent that such informal discussions will not resolve a grievance.
 - B. This policy shall not supersede, modify, or duplicate other Tribal Policies or Procedures unless expressly so stated. This policy is not to be used in addition to other internal complaint procedures, which may be available to the Supervisor/Director.
 - C. Remedies available to the grievant under this policy are limited to those remedies, which the tribe has the authority to provide. No supervisor, Director, or the Grievance Committee, acting under this policy and its procedures, may recommend or provide a remedy which amends, modifies, or changes tribal policy or procedure which is not in accordance with either tribal policy, or state and federal laws or regulations.
 - D. It is the responsibility of the decision-maker at each step of this procedure to assure that a grievance is grievable under these procedures before considering the merits of the grievance. If a grievance is found to be non-grievable at any step, the finding may be appealed with an executive session of the five members of the Lower Brule Sioux Tribe's Grievance Policy Committee, at which the LBT Grievance Committee will decide whether the grievant's complaint is grievable. If the grievance on appeal is non-grievable, the grievance will be dismissed. If the grievance on appeal is grievable, the decision-maker at that level of appeal shall proceed to consider the merits of the grievance.
 - E. This policy is designed to resolve work-related complaints expeditiously in a non-adversarial climate. In order to meet this objective, neither the giving tribal employee nor the administration respondent will be represented by legal counsel during the panel hearing. The panel will attempt to resolve questions by allowing freedom of expression from both parties, without intimidation often encountered by legal counsel's presence.
 - F. There shall be no retaliation against tribal employees for use of this policy.
- (4) Definition of a Grievance

- A. A grievance shall be complaint or dispute by a tribal employee in which he or she has suffered a direct injury as a result of a violation or an improper application of any laws, rules, policies, procedures, or regulations affecting his or her terms and conditions of employment or as a result of an arbitrary and capricious management action concerning his or her employment.
- B. The Grievance Committee shall be a Standing Committee with five members. The members will be selected from a pool of Supervisor Taskforce Members.
 - 1. Chair, Tribal Manager or designee,
 - 2. Plus, four members from the Supervisors Taskforce Pool.
 - 3. Each of the five members will have one vote.
 - 4. The Tribal Manager will act in the role of chair.
 - 5. A simple majority vote if the members is required.

Maintenance of Records

- A. The complaint and all records developed during the investigation of the complaint shall be considered confidential and shall not be released except as required by law or by the provisions of this policy.
- B. The complaint and all records developed during the investigation of the complaint shall be retained in the Department of Human Resources for a period of two years after the date of final determination.

Records developed, because of the grievance, will be placed in a file separate from the official personnel file. Thereafter, the records shall be destroyed unless state or federal action is pending.

(5) Procedure

- A. Filing of Grievances- Any tribal employee having a grievance who desires to avail himself or herself of this procedure shall do so by notifying his or her supervisor, in writing, of the grievance within seven working days of the occurrence on which the grievance is based. Such notice shall state the name and position of the employee and shall describe, in detail, the nature of the grievance, the facts on which the grievance is based, the time when the action complained of occurred, the names and positions of any person or persons alleged to be involved in such grievance and the remedy desired. The employee may also submit any additional material in support of the grievance which he or she deems advisable. The notice shall be dated and signed by the employee.
- B. Review of Grievances
 - 1. Step 1
 - a. After receiving a written notification of a grievance, the Grievant's Supervisor shall confer with the Grievant to discuss the grievance, In addition, the Supervisor may make such independent inquiry regarding the grievance as he or she deems necessary.

- b. The Supervisor shall render a written decision on the grievance and shall furnish the grievant with a copy. This written decision should be issued within three working days.
2. Step 2
 - a. If the grievance proceeding is not terminated at Step 1, the Grievant may appeal the Supervisor's decision to the Personnel Director for the tribe. Such appeal shall be made in writing to the Personnel Director and shall be made within five working days of the Grievant's receipt of the Supervisor's decision. The notice of appeal shall include a statement explaining why the Grievant believes that the Supervisor's decision should be overruled or modified. Upon receiving notice of appeal, the Personnel Director shall obtain from the Supervisor the grievance and all material submitted by the Grievant in support of the grievance.
 - b. The Personnel Director shall review the grievance and the Supervisor's decision. During such review, the Personnel Director may make such additional inquiry regarding the grievance as he or she deems appropriate. This may include a personal conference or conferences with the Grievant, the supervisor, and others.
 - c. The personnel Director shall render a written decision on the appeal and furnish copies thereof to the Grievant and the Supervisor. The Personnel Director's decision shall be issued within five working days. If the Grievant is satisfied with the Personnel Director's decision, the grievance proceeding shall be terminated. If the Grievant is not satisfied, he or she may proceed to Step 3.
3. Step 3
 - a. If the grievance is not terminated at Step 1 or 2, or if the issue is determined non-grievable by the Supervisor/Director or Personnel Director, the Grievant may appeal the Supervisor/Director or Personnel Director's decision of non-grievable status to the Administrative Grievance Committee. Such appeal shall be made in writing to the Tribal Manager, Chair of the Committee, within five working days of the Grievant's receipt of the Supervisor/Director or Personnel Director's decision. The notice of appeal to the Committee shall include a statement explaining why the Grievant believes that the Supervisor/Director or Personnel Director's decision should be modified or overruled.
 - b. Upon receiving such a notice of appeal, the Tribal Manager shall obtain a copy of the written grievance and all supporting materials and copies of the decisions of the Supervisor/Director and the Personnel Directors. The Chair shall have the members of the Grievance Committee selected.
 - c. The initial meeting of the Grievance Committee should occur within five working days. The Committee's initial meeting shall include discussions with the Grievant and the Supervisor/Director. The Committee may discuss the grievance with others, acquire additional documentation, and make additional inquiries, as it deems appropriate. The Committee may meet from time to time to review the grievance, as it deems necessary, but should render a written decision on the appeal within ten working days.

- d. If the Committee's decision is determined by the Tribal Manager to be in compliance with this policy, the Tribal Manager shall provide a copy of the Committee's decision to the Grievant and to the Personnel Director.
- e. All decisions by the Lower Brule Sioux Tribe Administrative Grievance Committee are final and may not be appealed within the administrative structure of the personnel policy.

Approved by Lower Brule Tribal Council
September 4, 2001

APPENDIX IV
Tribal Cell Phone Policy

Definition:

References to cell phones include cell phones or other devices including cell phone features.

Purpose:

The purpose of the Cellular Telephone Use policy is:

- To provide standards and clarification for cell phone use.
- To ensure safe work practices when considering the need to use a cell phone while driving or performing other duties.
- For employees using cell phones to make cost effective decisions regarding cell phone use and plan.

Scope:

This policy applies to all employees of the Lower Brule Sioux Tribe.

Policy:

- 1) Due to the nature of their positions, the Tribal Chairman and Tribal Council members are authorized to select any cellular phones and cellular plans available.
- 2) Only Program Directors* shall be eligible for regular cell phone services, providing the appropriate program budgets allow.
 - * If a Director feels it absolutely necessary for their employees to have a cell phone, then the Director must provide written justification to the Tribal Manager/Tribal Council for their consideration and approval or denial.
 - * Directors shall be responsible for monitoring their employees cell phone usage.
- 3) Cell phones provided by the Tribe or program shall be used for business purposes* only.
 - * Personal cellular calls (outgoing or incoming) will only be allowed within reason. These calls should be of short duration and only if these calls cannot be placed from a land line phone.
- 4) There shall be no internet access*, including access to emails, however we do realize that internet access may be required for some jobs.
 - * If a Director feels it is absolutely necessary to have internet access, then the Director must provide written justification to the Tribal Manager/Tribal Council for their consideration and approval or denial.
- 5) The Tribal Council will adopt an allowed monthly amount per cell phone. Directors shall be responsible for reviewing monthly cell phone bills, budgeting funds, and notifying employees who have exceeded their usage amount. An employee will be responsible for keeping track of the minutes available for use. An employee will be required to sign a payroll deduction form to cover any

amount over the allowed monthly amount. Any overages will be taken out in full from the employees check on the payday following receipt of the bill.

- 6) Federal Law prohibits the use of hand-held cellular phones while driving a federal vehicle. The Lower Brule Sioux Tribe is concerned about the welfare of our employees and others. The use of hand-held phones to text while driving is not allowed.

A) **Cellular phone use while driving a Tribal vehicle or personal vehicle on business:**

1. It is strongly recommended, if at all possible, to use your cellular phone when parked, or have a passenger use the phone. Conversations should be kept to a minimum.
2. If your phone rings when you are driving -- especially during hazardous conditions - let your cellular voice mail service take the call and listen to the message later when you are parked, or pull over before answering, if traffic condition permit.
3. Suspend conversations during hazardous driving conditions or situations.
4. Do not take notes or look up phone numbers while driving. As a driver, your first responsibility is to pay attention to the road.
5. When possible, place your calls before you begin your trip, or call when your vehicle is parked. If you absolutely must dial a number while driving, assess the traffic and dial only a few numbers at a time.
6. Learn and use the pre-programmed number dial features of your phone. Practice using this feature for commonly dialed numbers before driving so you are familiar with the procedures.
7. DO NOT engage in stressful or emotional conversations while driving. A stressful or emotional phone conversation while driving is distracting and potentially dangerous. If necessary, suspend the phone conversation.

- B) **Work Sites DO NOT** engage in the use of a cellular phone while at any work site during which the operation of a cellular phone will be a distraction to the user and/or may create an unsafe work environment. Such work sites include but are not limited to: Road repair, maintenance and construction, operating or repairing energized equipment such as electrical panels, motors, or energized

circuits. Such work sites must be secured or the cell phone used only by an employee while out of harm's way of such work environments.

- C) **Off-Road Equipment** DO NOT engage in the use of a cellular phone while operating a moving motorized off-road (maintenance/construction type) equipment. Even hands-free cellular phone will not be authorized while operating this type of equipment, unless the equipment has been properly stopped and taken out of gear or turned off.

Procedures:

Departments may have procedures that are more limiting than the Tribe's cellular telephone use policy, but department procedures must at minimum comply with this policy. Employees shall sign the Employee Declaration acknowledging the receipt of this policy. This declaration shall be kept in their employee file at the personnel office.

Guidelines:

Cellular phones are a tool to enhance employee productivity and provide a higher level of service to our customers. Cellular phone service is also more expensive than landline phones because of the airtime costs associated with cellular phone usage. Therefore we ask that employees follow the guidelines below to help keep costs to a minimum.

- 1) Do not use your cellular phone to make a call if regular phone service is available. There is no charge for a local call made from a regular phone while local calls made or received on a cellular phone incur charges.
- 2) Avoid lengthy conversations on cellular phones. If you anticipate a call lasting more than a few minutes try to arrange to call the person back from a regular phone.
- 3) Minimize calls placed to non cellular phone. The Tribe incurs costs for outgoing and in-coming cellular phone calls. Calls to non cellular phones result in twice the expense to the Tribe.
- 4) Minimize use of your cellular phone outside the home service area. Roaming charges add significantly to the cost of cellular phone calls.
- 5) It is recommended that employees turn off or silence their cell phones during meetings and other work related gatherings in respect of others.
- 6) If a cell phone is damaged, lost, or stolen it must be reported immediately to the purchasing office.

- 7) If a cell phone is damaged, lost, or stolen that employee will be responsible for reimbursing the Lower Brule Sioux Tribe for replacement or repair costs.
- 8) The Tribe requires return of equipment in the event of termination of employment from the Tribe for any reason or if the employees cell phone privileges are suspended or revoked.
- 9) If an individual does not return a cell phone when requested by the Tribe, he or she will be required to reimburse the Tribe the purchase price of the phone.

Policy Non-Compliance:

Failure to comply with the Cellular Telephone Use Policy may result in suspension of cell phone use privileges, disciplinary action, and possibly termination of employment.

APPENDIX IV
Tribal Time Clock Management Policies & Procedures

Adopted by LBST Tribal Council April, 5, 2017

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Section 01. Introduction

These policies and procedures are based on legitimate authority and seek fair labor policies for the employer and employee concerning time clocks and their usage. These policies and procedures are not intended to override the “*Lower Brule Sioux Tribe Personnel Management Policies & Procedures*”.

01.01.01 Authorities

The primary authority for the tribal council of the Lower Brule Sioux Tribe is stated in the *Constitution and Bylaws of the Lower Brule Sioux Tribe (“CBL”)*, Preamble: “We... in order to establish a more perfect tribal organization, promote the general welfare, and secure to ourselves and our posterity the power to exercise certain rights of home rule...do ordain and establish this Constitution....”

One of the enumerated powers of the tribal council is: “To adopt resolutions regulating the procedures of the council itself and of other tribal agencies and tribal officials...” (CBL, VI, 1 (h)).

01.02 Tribal Interests

It shall be in the interest of the Lower Brule Sioux Tribe in “promoting the general welfare” to manage employees of tribal agencies, programs or enterprises in such a way as to foster reasonable effectiveness and efficiency in the performance of duties by tribal employees, without, however, disregarding the traditional cultural and established customs of the tribe.

Section 02. Scope

The scope of these policies shall be to relate to all persons paid by tribal check, with due regard for equity within the tribal government. The General Manager, all Directors, and employees shall be held accountable for their time and their duties.

Section 03. General Policies & Procedures

These policies and procedures shall follow the standards and regulations regarding the special circumstances stated below.

03.01 Definitions

These policies and procedures apply to all employees of the tribe, whether paid out of the general fund or from a grant, contract or indirect cost revenues.

These policies and procedures shall apply to any employees who receive payment through the LBST payroll system.

It shall be the tribe's policy to treat all employees fairly. Accusations of unfair labor practice shall be addressed according to the grievance procedures, adopted September 4, 2001.

Full and accurate time and attendance record keeping shall be the joint responsibility of both the employee and his/her Supervisor. Adverse Personnel Actions will be taken for employees tampering with, damaging, or any misuse of the time clocks. Falsification of a time clock report may be an immediate termination for cause.

03.01.01 Probationary/Regular employees

Newly employed persons, except in the case of exempt employees and persons receiving a lateral transfer, promotion or demotion from another tribal position, shall be considered to be on probation for a period of 90 days.

All employees who have completed initial probation and have received a positive evaluation shall be considered a regular employee.

03.01.02 Part-time/Full-time

Employees who work thirty-two (32) hours or more per week shall be considered full-time employees. Those who are employed to work an ordinary week of less than thirty-two (32) hours (exclusive of occasional overtime) shall be considered part-time employees.

03.01.03 Non-exempt Employees

Non-exempt employees shall be compensated at time-and-a-half for hours authorized by their Supervisors in excess of 40 hours per seven-day workweek. Hours in excess of eight hours a day but compensated for by time off at another time within the current pay period shall not be considered overtime.

03.01.04 Exempt Employees

Professional employees and those whose jobs have been classified at or above Job Class Level Six shall be paid as salaried employees and who are exempt from standards relating to overtime pay and comp time pay, will also be required to use the time clock.

03.01.05 Essential Personnel

Essential Personnel will be determined by the required duties that must be performed during Tribal Holidays and/or weather conditions. (Tribal Council Resolution 07-110)

Wildlife, Ambulance, Tribal Security Officers, Rural Water, Emergency Services, Directors & Managers, Solid Waste, Custodial Staff, Buildings & Grounds, Transportation, Roads Department, Patient Transport, Community Health Representative, CHR. Lower Brule Employment Enterprise (LBEE)
Tribal Court clerk on duty 10:00 am – 12:00 pm (weekends and Tribal holidays)

Employees working time as essential employees will need to have their Director sign off on their time clock reports.

03.01.06 On-Call Employees

An employee who is required to remain on call on the employer's premises or so close thereto that he/she cannot use the time effectively for his/her own purposes is working while "on call".

Employees that are required to be "On-Call" because of their job classification and duties will be considered 'On-Call employees.

Wildlife, Roads, Enterprise, Solid Waste, Ambulance, Patient Transport,
Community Health Representative, (CHR)

Employees working time as on call employees will need to have their Director sign off on their time. A form will be provided to every Program. The form needs to be signed by the employee and the Director. "On-Call employees will be compensated for their time 'on-call".

Federal law requires that "on call" nonexempt employees must be compensated at or above the minimum wage and must be paid overtime for all hours worked in excess of forty (40) hours in any given week.

03.01.07 Work day hours

The work day for all tribal employees shall consist of eight hours on task measured *either* from 8:00 a.m. until noon and from 12:30 until 4:30 p.m. *or* on an eight-hour shift with (a) break(s) totaling one half hour designated by the Supervisor to meet the particular requirements of the job.

03.01.08 Overtime or Comp Time

Time on task in excess of 40 hours in any seven-day week shall be considered overtime. Exempt/Professional employees are not paid for overtime or given comp time for time on task in excess of 40 hours in any work week or pay period.

All comp time will be accrued at time and one half, if accrued in excess of forty (40) hours per week, and must be used during the Pay Period the comp time was accrued, unless approved in writing in advance by their Supervisor/Director.

03.02. Time Clock Procedures

03.02.01 Usage of Time Clock

All Non-exempt employees shall use the time clocks provided to each Program.

All Tribal Programs and Tribal employees shall follow the ***“Lower Brule Sioux Tribe Time Clock Management Policies & Procedures”***.

All Tribal Programs and Tribal employees shall punch in and out for:

Beginning and end of the day

Beginning and end of lunch

Time away from the work place and not working on Program goals

If an employee forgets to punch in or out they are to contact their Supervisor/Director immediately and provide a written explanation for the reason. The Supervisor/Director may sign off on the time clock report depending upon the reason. Failure to provide a reasonable explanation for failure to punch in or out shall be time taken as leave without pay. The employee may use their own accrued annual leave or personal leave for the time not recorded; leave donation shall not apply.

For two pay periods following implementation of the Time Clock Policies or for two pay periods following a new hire, if an employee forgets to punch in or out they are to contact their Supervisor/Director immediately and provide written explanation for the reason. The Supervisor/Director may sign off on the time clock report depending upon the reason. After the two pay periods following implementation of the Time Clock policies or two pay periods following a new hire, failure to punch in or punch out shall be time taken as leave without pay. The employee may use their own accrued annual leave or personal leave for the time not recorded; leave donation shall not apply.

Employees do not have to punch out/in for their breaks if they stay in their assigned work areas.

Employees may be subject to an “Adverse Personnel Action” for failure to clock in and out without a reasonable justification.

03.02.02 Work Hours

All Tribal employees shall work hours according to the ***“Lower Brule Sioux Tribe Personnel Management Policies & Procedures”*** or hours approved by the Program’s Director, in writing in advance.

Employees shall follow the “Work Hours” unless approved by the Director in writing, in advance.

All employees shall punch in and out as close to their “work hour” as possible. Employees are expected to be on time for their work day and shall not be allowed to come in late and make up their time by staying late or working through their lunch.

03.02.03 Work Week

All time clock reports shall be completed at the end of every week.

Time on task in excess of 40 hours in any seven-day week shall be considered overtime.

Exempt employees are not paid for overtime or given comp time for time on task in excess of 40 hours in any work week or Pay Period.

03.02.04 Pay Period

The Pay Period shall consist of two (2) consecutive work weeks.

03.02.05 Time Sheet Submittal

Time sheets shall reflect the hours worked per each Pay Period as per the time clock reports.

All leave used (Annual, Sick, Administrative, Funeral, or comp) shall be noted on the time sheet and accounted for with an approved "Leave Slip", signed by their Director.

All overtime and comp time shall be noted on the timesheet.

All time sheets and time clock reports shall be signed by the employee and the Supervisor/Director to ensure accuracy.

All time unaccounted for because of travel shall include an approved in advance travel form submitted with the time sheets and time clock reports

Section 04. Exceptions

Employees working in the field, "On Call", as "Essential Employees", or evenings and weekends will need to have their Supervisor/Director sign off on their "Exception". A form will be provided to every Program. The form needs to be signed by the employee, the Director and the General Manager. The Director will also need to sign off on the employees time sheet for hours unaccounted for on their time clock reports.

04.01.01 Employees that work in the field

04.01.02 Employees "On Call"

04.01.03 Employees that work evenings and weekends

04.01.04 Time Clock Failures

Time clock failures are instances where the time clocks are not working because of reasons such as computer problems, loss of electrical power, failure of equipment, or other reasons. Directors will need to sign off on the time sheet for these failures.

Employees are responsible to contact their Supervisor/Director immediately to inform them that the time clock is not working properly.

04.01.05 Travel

All time unaccounted for because of travel shall include an approved travel form submitted with the time sheets and time clock reports.

Section 05. Accountably

Full and accurate time and attendance record keeping shall be the joint responsibility of both the employee and his/her Supervisor/Director.

The employee and the Supervisor/Director shall keep track of the employee's hours to ensure the employee is not getting more than forty hours during a work week. Once the employee reaches forty hours they will need to punch out for the week, unless approved for overtime pay, in advance.

- 05.01.01 The General Manager shall be accountable for their Directors
- 05.02.01 The Directors shall be accountable for their staff
- 05.03.01 The Staff shall be accountable for their Time Sheets accuracy

Section 06. Responsibilities

06.01.01 General Manager

It is the General Manager's responsibility to ensure that all Supervisor/Directors follow the "***Lower Brule Sioux Tribe Time Clock Management Policies & Procedures***".

06.02.01 Supervisor/Director

It is the Supervisor/Directors responsibility to ensure that all employees follow the "***Lower Brule Sioux Tribe Time Clock Management Policies & Procedures***".

The Supervisor/Director is responsible for reviewing all time clock reports and time sheets to ensure full and accurate time and attendance record keeping, including leave requests, time clock reports, and time sheets.

The Supervisor/Director is responsible for ensuring the employee does not get overtime unless approved in the Programs budget.

No Director/Supervisor or employee has the authority to change a time clock report. Changing a time clock report to reflect hours worked when the employee was not at work shall result in an Adverse Personnel Action, including immediate termination of both the Director/Supervisor and employee.

06.03.01 Employee

It is the employee's responsibility to follow the "***Lower Brule Sioux Tribe Time Clock Management Policies & Procedures***".

It is the employee's responsibility to ensure that they only work the allotted amount of time per week/Pay Period, usually 40/80, unless overtime is approved in the Program's budget.

Personnel Policies and Procedures Signature Page

I, _____, acknowledge that I have been provided with a copy or had the opportunity to read and review the Lower Brule Sioux Tribal Personnel Policies and Procedures Handbook.

Name

Signature

Date