



HOOPA VALLEY TRIBAL COUNCIL
PERSONNEL POLICIES & PROCEDURES
TITLE 30

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CHAPTER 1- GENERAL PROVISIONS

1.1 INTRODUCTION

The Policies and procedures set forth in this ordinance shall constitute the rules and requirements regarding employment with the Hoopa Valley Tribe. The Policies and procedures contained in this manual are in no way to be interpreted as a statement of contractual rights between the Tribe and any of its employees. The Tribe reserves the right to modify or delete any of these policies at any time. Changes will be made as provided under the Legislative Procedures Act (LPA).

This policy manual supersedes all previous manuals, letters, memorandums, and understandings.

If you have any questions or wish to have further information about any guideline in this manual, please contact the Personnel Department.

Notwithstanding anything to the contrary contained in this manual, the contents contained in this manual shall be interpreted in a manner that furthers the political and economic stability of the Hoopa Valley Tribal Government and, as such, each of its employee's is expected to provide services to the tribe in a manner that promotes and furthers the well-being of the Tribal Government. Nothing in this manual shall be interpreted as limiting the duties, responsibilities, employment requirements or services of any employee, including those outside of an employee's ordinary duties and responsibilities, if such action is needed or necessary to accommodate a Tribal goal. It is the policy of the Hoopa Valley Tribal Government that each program manager plays a pro-active role in problem solving and that problems be solved at the closest possible level to where the service is delivered.

1.2 PURPOSE AND OBJECTIVES

This Personnel Policy and Procedures manual is to provide uniform and consistent practices to be followed in administering personnel related activities while carrying out the functions and operations of the Hoopa Tribal Government. This manual is intended to provide a consistent method for addressing personnel matters of the Tribe. Indian Preference in hiring shall be consistent with the Tribal Employment Rights Ordinance.

1.3 APPLICATION

These policies apply to all employees and program managers of departments, programs and specified entities of the Tribe, with all the exception of those that are employed under procurement contracts.

1.4 APPLICATION TO TRIBAL CHARTERED ENTITIES

This manual shall apply to all entities of the Tribe. Tribal chartered entities may develop personnel manuals that are not in conflict with this manual, provided there is concurrence by the Tribal Council.

Entities shall, no later than thirty 30 days following passage of this policy, submit to the council their present personnel policies and procedures accompanied by proposed deletions and amendments in conference with this paragraph; subsequent entity personnel policies and procedures shall, preceding implementation, be submitted to the Council for its concurrence.

1.5 NEPOTISM/CONFLICT OF INTEREST

"Nepotism," as used in this Policy is defined as preferential treatment accorded to a member of one's immediate family: spouse, son, daughter, father, mother, sister, brother, grandmother, grandfather, grandson, granddaughter, aunt, uncle, niece, nephew, including step fathers, mothers, sons and daughters when determined clearly evident by the Personnel Director and the Chairman concurs with the findings; and the following in-laws: son, daughter, brother, sister, mother, father, aunt, uncle, nephew and niece. In conducting Tribal Activities:

- a) No member of a Personnel Selection Committee or the Tribal Council shall participate in any portion of the selection process when a conflict of interest or nepotism exists, as defined in this section.
- b) No employee or member of the Tribal Council shall participate in the taking of personnel action of any individual when a conflict of interest or nepotism exists, as defined in this section. No Manager shall promote or hire and employee that would create a conflict of interest or nepotism.
- c) No Employee may be assigned to a unit supervised by a member of the family, as defined in this section. In the event the supervisory relationship is brought into existence by the promotion of an employee, the Personnel Director shall recommend to the Chairman the proper personnel action to take on an individual case basis.
- d) Employees, program managers, shall not accept outside employment or participate in an activity which inferences in any manner with the full and proper discharge of the duties of his or her position or results in a conflict of interest. A conflict of interest also exists if an employee's private activities interfere with the proper discharge of his or her official duties.
- e) No program manager with decision making authority shall participate in any activity that creates a conflict-of-interest situation. A conflict of interest exists when a manager with a decision-making authority uses, or appears to use, his or her position for benefits to himself or herself, relatives (as defined in this section), or business associates. If a manager with a decision-making authority pertaining to the activity subject to inquiry is involved in an outside interest which could be affected by a Tribal project or activity, and a conflict of interest exists in reality or appearance, he or she must report the situation to the Chairman immediately. The Tribal Chairman will take necessary measures to remedy the Conflict-of-Interest situation. Such measures may include reassignment. Unless as specifically authorized in writing, no manager shall participate in a conflict-of-interest situation and such participation shall be deemed a violation of this policy.

CHAPTER 2 – ORGANIZATION FOR ALL TRIBAL AND PERSONNEL ADMINISTRATION

2.1 HOOPA VALLEY TRIBAL COUNCIL

The council is responsible for approving personnel policies, procedures and amendments and waivers consistent with section 1.2 of this manual. The Council shall carry out an oversight function in the application of this policy. The Council may, from time to time, conduct an oversight review of the administration of these policies by the Tribal Chairman.

2.2 TRIBAL CHAIRMAN

The Tribal Chairman, as the Senior Executive Tribal Officer, shall carry out this policy and have supervisory authority over all personnel. The Tribal Chairman may delegate to his/her representative the responsibility for carrying out this policy. The Tribal Chairman shall approve budget revisions, new positions and salary increases consistent with the budget. The Chairman shall make interim appointments to key position vacancies until the selection has been made as provided in the personnel policies and confirmed for key positions by the Tribal Council. Key positions are defined as political and constitutional appointment personnel and program managers. The Chairman shall approve waivers that are administrative in nature and do not change the intent of these policies.

2.3 TRIBAL VICE-CHAIRMAN

The Tribal Vice-Chairman, shall act as the Senior Executive Tribal Officer and shall have the same authority as the Tribal Chairman only when the Tribal Chairman is absent or when the Tribal Chairman is unable to perform his duties.

2.4 PERSONNEL DEPARTMENT/DIRECTOR

The Personnel Department shall have day-to-day general oversight authority to carry out this policy; to provide support services to the Chairman, Council and program managers on a personnel matter. The Personnel Director exercises oversight, administrative and employment development functions pertaining to management of personnel, including, but not limited to:

Oversight Functions:

- Communicates and interprets policies;
- Recommends policy changes and conducts salary surveys at least every 3 years;
- Assists department managers in classifying positions;
- Prepares special policies and waivers; and
- Advises entities on personnel matters.

Administrative Functions:

- Maintains employee personnel files;
- Advertises jobs, boards, committees, and commissions and assists in screening and selection process of candidates;

- Certifies personnel actions, reviews disciplinary actions, and provides technical and staff assistance on appeals;
- Assists on group, workman's compensation and disability insurance issues and the retirement plan.

Employment Development:

- Conducts initial orientations with new employees;
- Assists in employee and program manager training, counseling and career development;
- Attends program manager evaluation meetings; and
- Ensures that employees prior to employment by the Tribe have met the requirements of the Tribe's Drug and Alcohol Policies (Hoopa Valley Tribal Code Title 21).

2.5 INSURANCE ADMINISTRATOR

The Insurance Administration is responsible for administering and evaluating the Tribe's insurance coverage, including entities that wish to participate in the Tribe's insurance program. Included in the responsibilities are, but are not limited to, group medical, life, pension, and retirement plan, flexible benefit package, workers compensation, disability, property, and liability insurance. The Administrator is also responsible for billing departments and entities for insurance coverage and ensuring that all departments, personnel, and events are properly insured.

2.6 PROGRAM MANAGER

The program manager, whether regular, interim, or temporary, is responsible for the administration of personnel matters, consistent with this policy, within his/her respective department. It is the responsibility of each manager to participate in a pro-active manner to identify and solve problems and deficiencies within the Tribal Government and to address matters at the closest level to where the service is delivered. The authorities and responsibilities of the program manager shall include, and are not limited to, the following oversight, administrative and employment development functions:

Oversight Functions:

- Initiates changes in this policy, special policies and waivers to best meet program needs and cost effectiveness.

Administration Functions:

- Informs each employee under their charge of responsibility to know and understand these personnel policies.
- Develops and participates in the evaluation of annual program goals and objectives, program structure, and service delivery;
- Participates and is responsible for the development of subordinate program goals and objectives, program structure and service delivery;

- In consultation with the Personnel Director, and develops employee wage/salary classification, job descriptions, hires, assigns, reassigns and recommends merit increases for staff;
- Evaluates staff performance, disciplines staff;
- Reports staff accidents and injuries;
- Submits certified payroll and approved leave requests; and
- Recommends recruitment methods, testing and interview procedures for hire.

Employment Development Functions:

- Determines work assignments, schedules and locations;
- Develops training, counseling, and career development plans; and
- Assists the Fit for Duty Officer in accordance with the Tribe's Drug and Alcohol Policy.

2.7 *BOARDS, COMMITTEES AND COMMISSIONS*

- Unless as otherwise delegated in written and approved governing documents to the contrary, the authority of any board of directors, committee and commission shall be limited to oversight functions, policy development and interpretation necessary to carry out this policy. The board, committee or commission may, from time to time, conduct oversight reviews of the administration of this policy with the program or entity. No board, committee or commission, or any member of any board, committee, or commission, shall have or exercise any administrative authorities in carrying out this policy.
- Each member of a board, committee or commission shall conduct his/herself in a professional and ethical manor. Information acquired during his/her term of office shall not be purposely misused or misinterpreted in a manner that results in a misinterpretation of the truth.
- It is the responsibility of the board, committee, or commission to enforce policies, rules and regulations applicable to them, including the conflict of interest and nepotism policies and the Legislative Procedures Act.
- Each member of the board, committee or commissions is responsible for enforcing this section within their membership and shall report, within 10 calendar days any violation to the Tribal Council along with the recommended actions to remedy the alleged violation.
- Each member of the board, committee or commission is subject to the Tribe's Alcohol and Drug Policy.

CHAPTER 3 – EMPLOYMENT CLASSIFICATION

3.1 EMPLOYMENT CATEGORIES

3.1.1 POLITICAL APPOINTED PERSONNEL

Political appointments are those positions appointed or employed at the political discretion of the Tribal Council or Chairman and are subject to immediate appointment, removal, or termination by the Tribal Council or Chairman, excluding members of boards, committees, and commissions. The term of a Political Appointment shall be determined by the Council or Chairman. Political Appointment personnel shall not have the ability to appeal termination under these policies except in cases of alleged discrimination. The decision of the appointing authority shall be final. Political Appointment personnel who are paid a salary wage shall be entitled to fringe benefits. Appointees are subject to alcohol & drug testing pursuant to the Tribe's Alcohol & Drug Policy.

3.1.2 CONSTITUTIONAL APPOINTMENT PERSONNEL

Constitutional appointments are those positions appointed by the council as stated in constitution and bylaws of the Hoopa Valley Tribe. The term, of a constitutional appointment shall be one (1) year or at the discretion of the Council. Constitutional appointment personnel shall not have the ability to appeal termination under these policies except in cases of alleged discrimination. The decision of appointing authority shall be final. Salary, Stipend, and fringe benefits is determined by the Council. Appointees are subject to alcohol & drug testing pursuant to the Tribe's Alcohol & Drug Policy.

3.1.3 SERGEANT AT ARMS TO THE TRIBAL COUNCIL

The Sergeant at Arms to the Tribal Council is a position appointed by the Council as stated in the constitution and bylaws of the Hoopa Valley Tribe. The term of the Sergeant at Arms shall be one (1) year or at the discretion of the Council. The Sergeant at Arms shall not have the ability to appeal termination under these policies except in cases of alleged discrimination. The decision of appointing authority shall be final. The Sergeant at Arms shall receive health insurance benefits and will be covered by workers compensation insurance. The Sergeant at Arms is subject to alcohol & drug testing pursuant to the Tribe's Alcohol & Drug Policy.

3.1.4 EMPLOYEE

An employee may be employed in a full-time or part-time capacity. Employees are not considered to be in a management position.

3.1.5 PROGRAM MANAGER

A program manager has the direct responsibility for the functions of the operations of a department, subordinate programs, company, or business.

3.1.6 CONTRACT EMPLOYEE

A contract employee is one that is hired under a specific employment contract. This policy applies to all contract employees except where contract language supersedes these personnel policies. In the absence of a contract employee evaluation process, the Manager's evaluation and appeal process will apply to contract employees. Contract employees are subject to the alcohol & drug testing pursuant to the Tribe's Alcohol & Drug Policy.

3.1.7 VOLUNTEER/SERVING WITHOUT PAY

Volunteers and persons appointed to serve without pay are not eligible to receive wages and benefits available to paid employees under this manual other than non-income workers compensation benefits, provided that they have completed the proper documents and are approved for appointment.

3.2 EMPLOYMENT STATUS

3.2.1 INTRODUCTORY EMPLOYEE

The introductory period shall be an integral part of the selection and screening process and shall be utilized by the program manager as an opportunity to observe the new employees work, to train and aid the new employee in adjustment to the position, and to relieve from employment any employee whose performance fails to meet required standards. All entrances and all promotional appointments are subject to an introductory period of at least ninety (90) days from the date of hire. Any interruption of service during the introductory period shall not be counted as part of such period. Employees that satisfactorily complete the introductory period will be expected to meet the requirements of their job position and no additional rights attach to that employee's status as an employee with the exception of certain fringe benefits that may be available upon completion of the introductory period.

3.2.2 FULL-TIME EMPLOYEE

A full-time employee is one who receives an assignment to work for a minimum of 32 hours per week on a continuing basis. Full-time employees shall be eligible for benefits described in this Manual if classified as a regular.

3.2.3 PART-TIME EMPLOYEE

- a) A part-time employee is one who receives an assignment to work for less than 30 hours per week on a continuing basis.
- b) A part-time employee may be a regular or temporary employee.

- c) A part-time employee shall be eligible for benefits described in this Manual if classified as regular, prorated to the hours worked.

3.2.4 REGULAR EMPLOYEE

A regular employee is one who has completed the introductory period either in full-time or part-time capacity.

3.2.5 TEMPORARY EMPLOYEE

- a) A temporary employee receives an appointment with the understanding that it is a short-time assignment.
- b) Employees on temporary appointment do not accrue sick or annual leave and are not eligible for any of the benefits described in this manual with the exception of paid Tribal Holidays consistent with section 11.1 of this policy. Other benefits may be granted on occasion or to the extent required by state and federal laws.
- c) Should a temporary employee become a regular employee, his/her anniversary date will be based on the date the said employee acquired regular status.
- d) Temporary appointments are limited to six (6) months. Successive temporary appointments to the same position with the same person are prohibited.
- e) A temporary employee shall not have the ability to appeal termination under these policies except in cases of alleged discrimination.
- f) All temporary or temporary on-call employees are subject to alcohol and drug testing for positions exceeding seven (7) workdays, pursuant to the Tribe's Alcohol and Drug Policy.

3.2.6 SEASONAL EMPLOYEE

Program managers may make seasonal appointments where additional employees are needed during a particular season, provided budgeted funds are available. The types of seasonal employees include:

- a) Temporary Seasonal:

A seasonal employee may be hired on a temporary basis for a limited time period and are not eligible for benefits with the exception of paid Tribal Holidays consistent with section 11.1 of this policy. Other benefits may be granted on occasion or to the extent required applicable laws. Seasonal appointments are paid by the hour. Temporary seasonal positions must be advertised each season.

b) Regular Seasonal:

Regular seasonal employees are reinstated each year for the season and are eligible for all benefits for the time period in which they are employed. After the initial advertising it is not required to advertise each season.

3.2.7 VOLUNTEER

Volunteer employees are not entitled to any benefits provided under this policy but shall preform consistent with these policies. Volunteer employees will be covered by non-income Workers Compensation Benefits.

- a) Volunteers may be dismissed at the discretion of the department manager and have no appeal rights.
- b) All volunteers are subject to alcohol and drug testing for positions exceeding seven (7) workdays, pursuant to the Tribe's Alcohol and Drug Policy

CHAPTER 4 – RECRUITMENT AND SELECTION

4.1 RECRUITMENT

To assure that interested persons are informed and qualified persons are attracted to compete, job vacancies must be publicized for a minimum of 15 days except for temporary appointments for periods less than fifteen (15) workdays. To assure equal employment opportunity, announcements shall be posted on bulletin boards and advertised to the extent that they will be available to all members of the community and other interested parties as deemed necessary by the Personnel Director. Additional announcements may be made to newspapers, radio and television stations, educational institutions, and community organizations as needed.

4.2 JOB ANNOUNCEMENTS

Vacancy announcements shall include the position title, filing deadline, salary range, brief description of major duties, responsibilities, and minimum qualifications for the position. The announcement shall also

include an Indian Preference statement and Drug Policy statement. Public notices shall be done in a cost-effective manner.

4.3 FILING APPLICATIONS

- a) Application for employment shall be made on forms provided by the Personnel Department and must be filed with that office on or prior to the closing date specified in the announcement or postmarked before midnight of that date. Such applications may require information concerning education, experience, references, and other pertinent information. All applications shall be signed, and the truth of the statements contained therein certified by such signatures.
- b) Applications for employment will be accepted at any time. The applications will be kept on file for one year and, applicants will be considered for positions if requested by the applicant.
- c) All applicants shall be informed of the Tribe's Alcohol and Drug Policy.

4.4 AFFIRMATIVE ACTION

- a) Candidates for employment will be considered without regard to race, color, age, religion, national origins, political affiliation, marital status, sex, disability, or other non-merit factor.
- b) As provided by TERO, qualified members of the Hoopa Valley Tribe and other qualified Indians of a federally recognized Tribe shall be given preference in hiring.

4.5 QUALIFICATIONS

The program manager shall screen all applications for minimum qualifications requirements established for the job. Minimum qualification requirements reflect only the basic knowledge, skills, and abilities which are directly related to the duties of the position. Applicants who meet the minimum qualifications shall be rated qualified. Applicants who do not meet these requirements will not be considered for employment and shall be notified in writing by the Personnel Department.

4.6 EVALUATION OF APPLICANTS

- a) Evaluation of applicants can take the form of written examinations, oral interviews, consideration of training/education and experience, and previous job performance, etc. All applicants must be evaluated by the same method. Whatever form the evaluation takes, it must be practical in nature, job-related, and constructed to reveal the capacity of the candidate for the particular position for which he or she is competing.
- b) Applicants for a position are ranked by the Personnel Director or by a Selection Committee.

4.7 INTERVIEW PANEL

- a) Interview panel may be convened by the program manager or Personnel Director.
- b) The Committee will consist of two to three individuals selected for their knowledge of the position, objectivity, and skill in interviewing and evaluating qualifications of candidates.

4.8 SELECTION

- a) Neither the Personnel Director nor the interview panel will make hiring decisions. They will rank applicants and send the list to the appropriate program manager for action.
- b) The selection of key management personnel must be confirmed by the Tribal Council. A final offer of employment will be contingent upon completion of a favorable background investigation. Key positions are defined as political and constitutional appointment personnel and program managers.
- c) All selected applicants will be subject to alcohol and drug testing pursuant to the Tribe's Alcohol and Drug Testing Policy.
- d) Background investigations may be required for other employment positions if contained in the minimum qualifications or job description.

4.9 APPOINTMENT

Prospective employees shall receive written offers of employment. Upon arrival in the workplace, employees will be given an initial orientation regarding employment with the Tribe. The written offer will include a brief description of the job, starting salary, effective date of employment and other specific conditions relating to the individual's employment.

4.10 PAYROLL CERTIFICATION

The Personnel Director shall certify those persons who have been appointed and are employed in accordance with the provisions of these policies. The Chief Financial Officer shall not approve payment for salary/and or wages to any person who has not been so certified to begin employment by the Personnel Director.

CHAPTER 5 – CONDITIONS OF EMPLOYMENT

5.1 CHAIN OF COMMAND POLICY

It is the policy of the Tribal Council that all violations of the chain of command are prohibited within the operations of the Tribe with respect to policy and personnel matters. Any employee or manager who violates the chain of command policy may be subject to immediate disciplinary action, including possible termination of employment. A violation to the chain of command policy

is defined as, 1) when an employee usurps the established lines of authority within the Tribal structure without first discussing the matter with his/her immediate supervisor, then program manager; or 2), when a program manager submits a matter to the Tribal Chairman and/or Council without including a recommended solution.

5.2 MANAGEMENT GENERAL PRINCIPLES

- a) The Tribal Council shall require performance from its program managers that is in accordance with the roles and responsibilities of the position.
- b) Program managers have a direct responsibility to contribute to the continued development and improvement of the Tribal Government. These include goal setting, evaluations and problem solving.
- c) Persons holding management positions are expected to know the responsibilities of their jobs, contribute to the identification and resolution of deficiencies in the Tribal structure that impact their jobs, programs, and services.

5.3 EMPLOYEE GENERAL PRINCIPLES

- a) The Tribal Council shall require performance from its employees that is in accordance with the roles and responsibilities of the position.
- b) New employees shall receive an orientation on job requirements by the immediate supervisor.
- c) Employees shall be fully informed of the performance requirements of the positions they fill and shall receive a current copy of their job description.
- d) Employees shall be informed of the location and accessibility of the personnel manual and if requested by the employee shall receive clarification from their immediate supervisor on all personnel matters affecting them such as fringe benefits, pay policies, Indian Preference, etc.
- e) Employees shall be informed of any inadequacies in their job performance and shall have reasonable opportunity to improve performance through counseling or coaching from the supervisor. If counseling or coaching fails, the employee may be terminated from his/her position.
- f) Employees shall be permitted to submit complaints through grievance procedures without reprisal.
- g) Employees shall be informed in writing of any adverse actions that may directly affect them.

- h) Personnel information about employees shall be protected. Personnel folders shall only be available to the employee and officially authorized personnel consistent with Chapter 14 of this policy.
- i) Employees shall be reimbursed for expenses accumulated for travel and transportation on authorized Tribal activities at rates approved by the Council.
- j) Employees are encouraged to exercise their political rights as citizens and Tribal Members. They may vote as they choose, support candidates of their choice, and express their political opinions. However, political activities must take place outside of working hours and away from Tribal Offices.

5.4 EMPLOYEE RESPONSIBILITIES

- a) Employees shall provide complete and accurate information in their job applications.
- b) Employees shall perform "other duties as assigned," as it pertains to their position or goals of the Tribe.
- c) Employees shall be expected to make a reasonable effort to improve performance when the supervisor has identified inadequacies.
- d) All employees shall read this manual in its entirety, shall keep abreast of changes and revisions, and shall seek clarification when necessary.
- e) No employee shall presume to speak for the Hoopa Valley Tribe to any mass media outlet on any matter concerning the Tribe without the delegated authority to do so, or the express prior written approval of the Tribal Council, or unless public relations, negotiations, and similar work is a duty of the employee's position.
- f) Employees shall be expected to dress in a manner appropriate to their position and proper in respect to specific occasions. Each program manager is responsible for establishing a reasonable dress code appropriate for their department. Personal overall appearance shall be a matter of concern for each employee, which includes but is not limited to grooming and personal hygiene. The manner has sole discretion to determine whether an employee's appearance is appropriate for his/her job position.
- g) An employee shall not solicit or accept gifts, contributions, favors, etc., for personal gain value from any person or organization doing business with the Hoopa Valley Tribe.
- h) No children of the employees shall be allowed in the Tribal Offices during work hours.
- i) Employees are responsible for the maintenance and upkeep of all Tribal Equipment.

- j) Employees are required to abide by all policies and procedures, including the Tribe's Alcohol and Drug Testing Policy
- k) Any employee leaving a work site must notify and seek authorization from their supervisor in advance. Every employee is required to be at the work site as directed by the program manager or his/her immediate supervisor.

5.5 HARASSMENT POLICY

The Hoopa Valley Tribal Council strives to maintain a work environment in which all individuals may expect to be treated with dignity, respect, and courtesy. The purpose of this policy is to foster a positive and safe organizational culture free of intimidation, oppression, and exploitation; unlawful harassment of any kind will not be tolerated. All tribal employees and volunteers, as well as all members of the Tribal Council and all members of the Tribe's Boards, Committees, and Commissions, are subject to this harassment policy. Through education and enforcement of this policy the Hoopa Valley Tribal Council will seek to prevent, correct, and discipline behaviors that violate this policy. Violation of this policy will result in disciplinary action, which may include termination of employment. The Tribal Council accepts no liability for harassment of one employee by another. The individual who commits prohibited harassment is personally liable for such actions and their consequences.

5.5.1 UNACCEPTABLE CONDUCT

- a. **Harassment.** Harassment is prohibited by federal and tribal employment laws. This policy prohibits harassment of any kind. Harassment is defined as: *Any unwelcome verbal, non-verbal, or physical conduct designed to threaten, intimidate, or coerce employees.* Such conduct directly impairs an employee's physical, mental, and/or emotional ability to perform their job. Harassment can take the form of unwelcome verbal (including jokes, comments, slurs, and gossip) or non-verbal (including the distribution or display of material in any medium) communication as well as unwelcome physical contact (touching, assault, and destruction of property).
- b. **Sexual Harassment.** Sexual Harassment in any form is prohibited under this policy as well as federal and tribal law. Sexual Harassment is defined as: *Unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of such conduct is used as the basis for employment decisions or such conduct has the purpose or effect of creating an intimidating, hostile, or offensive working environment.* The determination of whether sexual harassment has occurred takes into consideration the perceptions of the individual being harassed, not solely the intentions of the alleged harasser.

Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is unwelcome, that is personally offensive, and that lowers morale, thereby interfering with work effectiveness.

5.5.2 COMPLAINTS AND INVESTIGATIONS

The Personnel/HR Department shall develop guidelines, to be approved under the Legislative Procedures Act, for implementing this harassment policy, including the process for receiving and investigating harassment complaints and carrying out the appropriate corrective action/discipline in response to violations of this harassment policy.

5.5.3 RETALIATION

Retaliation or attempted retaliation is a violation of this policy. Anyone who does so will be subject to severe sanctions up to and including termination. No hardship, loss of benefits, or penalty may be imposed on an employee as punishment for:

- Filing or responding to a harassment complaint
- Appearing as a witness in the investigation of a harassment complaint; or
- Serving as an investigator of a harassment complaint.

5.5.4 GROUNDLESS AND MALICIOUS COMPLAINTS

Filing groundless or malicious complaints are an abuse of this policy and are prohibited. A complaint deemed groundless or malicious may be subject to review for disciplinary action up to and including termination.

5.6 DRIVER'S LICENSE REQUIREMENT

The Hoopa Valley Tribe does not require employees or applicants to possess a valid driver's license unless the responsibilities of the position explicitly include operating a motor vehicle as an essential function.

A valid driver's license will only be required when:

- a) The employee is expected to drive a Tribal owned, or personal vehicle for business purposes as part of their job duties; or
- b) Driving is a critical operational requirement based on the nature of the work or regulatory obligations.

CHAPTER 6 – EMPLOYEE & MANAGER PERFORMANCE, EVALUATION

6.1 EMPLOYEE AND MANAGER EVALUATION PROCEDURES

It is the policy of the Hoopa Valley Tribe that employees and managers be provided constructive and objective feedback regularly to maximize their contributions to the organizations. The employee and manager evaluation performance appraisal serves purposes. The most important aspects are communication between the supervisor and employee regarding any changes in the employee's job, areas of performance strength and weakness, and areas of specific training need. It is the responsibility of the program manager to make reasonable efforts to conduct employee evaluations at least once a

year. Evaluations conducted under this policy include, but are not limited to, introductory, employee and manager reviews.

6.1.1 INTRODUCTORY EVALUATIONS

Written evaluations are made on introductory employee performance one month prior to completion of the introductory period. The Personnel Department shall send reminders to managers when the introductory performance reviews are due. However, failure to send the reminder does not excuse the manager from the responsibility to conduct the evaluation.

Evaluation of an employee's performance during the introductory period is a continuing process. However, one month prior to completion of the introductory period, the employee's manager will provide a detailed assessment in writing of the employee's performance with a recommendation to take one of the following actions:

- Affirm that the services of the employee have been found to be satisfactory and certifies that the employee be given a regular appointment to the position.
- Recommend that the employee's services be terminated.
- Recommend that the introductory period be extended.

6.1.2 EXTENSION OF INTRODUCTORY PERIOD

A program manager, may with the concurrence of the Personnel Director, extend an employee's introductory period for a specific time not to exceed an additional 90 days. The employee shall be notified of the reason for the extension, and a further report and decision shall be required at the end of this additional period.

6.1.3 TERMINATION DURING INTRODUCTORY PERIOD

The employment of introductory employees is at the will of the employer and may be terminated at any time. The reason or reasons for the termination of the introductory employee will be documented in the employee's personnel file for records purposes.

6.2 MANAGEMENT EVALUATIONS

Managers are hired based upon their expertise and ability to manage in the discipline for which they were hired. The premise upon which management evaluations will be based is that managers are expected to be among the most knowledgeable in developing decisions and for addressing problem areas within their program.

Program managers will be evaluated at least annually, or as otherwise needed, by the Tribal Chairman or his/her authorized representative using the manager evaluation forms provided by the Personnel Department. Performance deficiencies will be identified during the evaluation or under a separate document and provided to the manager. Annual manager evaluations will be consistent within the

provision of the Tribal Audit and Report Policy. Managers will be provided a copy of the completed evaluation form, and a copy will be placed in the manager's personnel file. A manager may submit a written response to the evaluation which will be placed in the manager's personnel file.

Managers will be evaluated on the following criteria:

- Goals and objectives – Progress/achievements;
- Management of finances and Tribal assets;
- Efforts/ability to identify and solve problems;
- Administrative functions – personnel/budget management, application/waiver of policies and procedures; and
- Identification of areas needing improvement.
- Other written criteria that are related to the manager's duties.

Poor and/or unsatisfactory duties by managers at any time during their employment may result in disciplinary action or termination.

6.3 EMPLOYEE EVALUATIONS

Regular employee evaluations will be conducted annually, or as otherwise needed, by the program manager or his/her authorized representative using the employee evaluation forms provided by the personnel department. Performance deficiencies will be identified during the evaluation or under a separate document and provided to the employee. Employees will be provided a copy of the completed evaluation form, and a copy will be placed in the employee's personnel file.

Employees will be evaluated on the following criteria:

- Work performance;
- Knowledge of job/ability to satisfactory perform;
- Administrative functions, timecards, property control, attendance;
- Efforts/ability to understand, address and remedy job related problems; and
- Identification of areas needing improvement.
- Other written criteria that are related to the employee's duties.

The supervisor and employee will meet to discuss the completed evaluation form. The evaluation form shall be signed by the employee and supervisor and forwarded to the program manager for review. Following review, the form shall be forwarded to the employee's personnel file. Employees disagreeing with a performance evaluation shall sign the report to acknowledge they have read it. The employee may outline in writing their basis for disagreement to be included with the evaluation.

CHAPTER 7 – CHANGES IN EMPLOYMENT STATUS

There are various factors that can affect an employee's or manager's status of employment within the tribe. These can include actions intended to benefit an employee or manager following superior work

performance, those that are mutually agreed to by the employee or manager and Tribe, as well as those actions resulting from the need to take corrective actions resulting from less than satisfactory work performance. Any employee or manager who does not agree with actions taken to change his or her employment status with the tribe may appeal such actions through the appropriate employee or manager procedures contained in this policy. Examples in employment status include:

7.1 PROMOTION

Vacancies shall be filled by promotion whenever practical and in the best interest of the Hoopa Valley Tribe. Promotion occurs when an employee moves from his/her current position to a position of increased responsibility and complexity. No employee may be promoted permanently if he/she does not meet the minimum qualifications at the higher-level position.

7.1.1 TEMPORARY PROMOTIONS

Temporary promotions may be made in certain situations such as periods of extended leave, special temporary projects, etc. Competition will not be required for a temporary promotion, but the employee must be performing the higher-level duties for at least two pay periods. The employee will be paid at the usual higher rate of the higher-level position. If the employee receives a pay increase for the temporary promotion, the employee's pay will revert to his/her previous pay when the temporary promotion is over.

7.1.2 RETROACTIVE PROMOTIONS & PAY INCREASES

Promotions and pay increases shall not be retroactive before the date of approval by the appointing power authority. The program manager is responsible to provide the necessary forms and documentation to the Personnel Department in advance of any deadlines for processing promotions or pay increases.

7.2 TRANSFER/REASSIGNMENT

Transfer is when an employee is moved from one position to another position. An employee must meet the minimum qualifications of the said job before he/she can be transferred to it. Reassignment is when an employee is returned to a formally held position. The Personnel Director shall verify the employee meets the qualifications for the position. The salary paid to a transferred or reassigned employee shall be at the rate normally paid for the position by the department or entity.

7.3 SEPARATION

Separation is when there is a termination of an employee relationship with the tribe. When separation occurs, the employee's final paycheck will not be prepared by the Fiscal Department until a statement of clearance is submitted by the program manager stating that all Tribal assets have been returned and any outstanding obligations to the Tribe have been cleared.

7.4 RETIREMENT

Retirement is the separation of an employee in accordance with the provisions of the retirement system under which the employee may be eligible to receive benefits.

7.5 RESIGNATION

- 8) Resignation is the separation of an employee by his/her voluntary act.
- 8) The employee should give at least two weeks prior notice of the resignation in writing to the immediate supervisor. A copy of the notice shall be forwarded to the Personnel Director by the program manager.
- 8) Employees who are not at work without prior authorization and have not contacted their supervisor after three (3) scheduled working days from the last day the employee worked or the end of authorized leave, shall be deemed to have resigned.

7.6 LAYOFF

- 8) An employee may be laid off whenever it is deemed necessary by reason or lack of work or funds due to program reduction, reorganization, or other administrative adjustments.
- 8) The affected employee(s) shall be notified of an impending layoff within at least ten (10) working days prior to the effective date of the layoff, when possible. The notification shall state the reasons for the layoff and the option(s) the employee has, if any, for reassignment and subsequent re-employment.
- 8) Seniority, performance, and type of appointment shall be considered in determining the order of layoff. No Employee is to be separated by layoff until all temporary and introductory employees serving in the same job classification have been separated.

7.7 DISMISSAL

An employee may be dismissed at any time when there is a reasonable basis for such termination. Examples of such reasonable basis are, but are not limited to, the employee's inappropriate behavior at work, failure to perform the required duties of the job, lack of funding for the position, restructuring of a department, or any reasonable business judgment or economic reason in making the decision to terminate the employee. When an employee is subject to dismissal for employee-based conduct, the program manager shall have followed the procedures specified in section 8 of these policies. Employees may be immediately terminated without notice when it is determined by the program manager's reasonable judgment that the employee's specific behavior is seriously prejudicial to the best interests of the Tribe. For the purposes of this section an employee shall also include the program managers. Program managers shall consult with the Office of Tribal Attorney prior to any employee termination. A program manager may not dismiss an employee without consulting the Personnel Director who shall

verify that all required documentation has been properly placed in the employee's file and the Office of Tribal Attorney has reviewed the termination.

7.8 END OF CONTRACT PERIOD

Employment of a contract employee with the Tribe shall end upon expiration of the contract.

CHAPTER 8 – CHANGES OF EMPLOYMENT RESULTING FROM DISCIPLINARY ACTION

8.1 DISCIPLINARY ACTION – EMPLOYEES

Disciplinary action including termination or demotion, may be taken against any employee. Program managers must demonstrate that counseling on specific areas of poor performance has occurred, and that insufficient improvement has taken place as a result of counseling or other corrective efforts. Unsatisfactory performance must be documented and must relate to the employee's job description and employee's evaluation. However, employees may be immediately terminated without notice when it is determined by the program manager's reasonable judgment that the employee's specific behavior is seriously prejudicial to the best interests of the Tribe.

8.1.1 CORRECTIVE INTERVIEW/WRITTEN WARNING

The supervisor shall discuss a problem with the employee and suggest corrective action. Within five (5) workdays following the corrective interview, the program manager and/or supervisor.

shall file with the employee and Personnel Department a written warning from the identified problem and suggested corrective action needed by the employee. If the employee has taken the corrective action and the program manager is satisfied, the written warning may be removed from the employee's personnel file at the employee's request after twelve (12) months.

8.1.2 WRITTEN REPRIMAND/DISCIPLINARY ACTION

At the discretion of the program manager, disciplinary action may be taken against an employee at the time that a written reprimand is given. In the event of immediate termination, a written notice of termination shall be given in place of a reprimand.

A written reprimand/notice of disciplinary action shall be addressed to the employee and reasonably includes the following information: the behavior and dates that support the charge and the type of disciplinary action being taken against the employee. The employee will be advised that the continuance of inappropriate behavior will result in more severe disciplinary action, which could include termination. Employees shall be advised of the employee grievance procedures regarding disciplinary action and that they may take the matter up the department's chain of command should the employee not agree with their immediate supervisor's action.

A signed copy of the reprimand shall be included in the employee's personnel file, and the employee will have the opportunity to submit comments for the personnel folder. The types of disciplinary action which may be taken, but not limited to, include:

- a) **Disciplinary Probation:** Disciplinary probation is when an employee is placed in probationary status sending further review of job performance. The notice will explain the reasons for the probationary period, the duration, the standards for judging the employee's improvements and the action to be taken if the deficiencies are not corrected within the probationary period. A copy of the personnel action is placed in the employee's personnel file. In no instance shall disciplinary probation be more than 90 days.
- b) **Suspension With/Without Pay:** Suspension with pay will be allowed in cases of pending investigation and while waiting to be assessed or waiting for results of a for cause drug test. The program manager may suspend an employee with pay for up to, but not exceeding (30) calendar days. On or before the effective date of the suspension, the supervisor will furnish the employee with a written statement setting forth reasons for the suspension, the effective dates of the suspension, and the date the employee is to return to work.
- c) **Demotion:** Demotion is defined as when an employee is moved to a lower level of responsibility and compensation for disciplinary reasons.
- d) **Dismissal:** Dismissal is when an employee is removed from employment.

8.1.3 EXAMPLES OF PENALTIES

The penalties listed below are guidelines only to serve as examples of inappropriate behavior and are not intended to limit other appropriate action. These penalties need to be followed in the order indicated also they are in addition to any which may be imposed by a court of law.

<u>KIND OF OFFENCE</u>	<u>1ST PENALTY</u>	<u>2ND PENALTY</u>	<u>3RD PENALTY</u>
Unsatisfactory Job Performance.	Corrective Interview/ Written Warning	Disciplinary Action	Dismissal
Neglect of Duty/ Sleeping on the Job.	Disciplinary Action or Dismissal	Dismissal	
Excessive absenteeism/Tardiness; abuse of policies.	Corrective Interview/Written Warning	Disciplinary Action	Dismissal
Insubordination; failure to carry out legitimate instructions or duties.	Disciplinary Action or Dismissal	Dismissal	
Releasing confidential information without proper authorization.	Disciplinary Action or Dismissal	Dismissal	

Vending, soliciting, or collecting contributions on employer time of premises without authorization.	Corrective Interview/ Written Warning	Disciplinary Action	Dismissal
Reporting under the influence of alcohol or drugs.	Refer to Alcohol and Drug Policy		
Consuming alcohol or drugs on the job.	Refer to Alcohol and Drug Policy		
Misconduct	Disciplinary Action or Dismissal	Dismissal	
Violation of safety regulations.	Corrective Interview/ Written Warning	Disciplinary Action	Dismissal
Intentional falsification of information on employment application or falsification of personnel records, time sheet, or other records.	Repayment; Disciplinary Action or Dismissal	Dismissal	
Falsifying or counterfeiting expense claims.	Repayment; Disciplinary Action or Dismissal	Repayment; Dismissal	
Theft of unauthorized possession of tribal property.	Dismissal; Prosecution		
Acceptance or solicitation of gifts; unless it's a promotion or company logo. Acceptance of bribes in official capacity.	Repayment or forfeiture; Disciplinary Action or Dismissal	Dismissal	
AWOL 1–3 Days	Disciplinary Action or Dismissal	Dismissal	
Harassment	Refer to Section 5.5 of this policy		

8.2 DISCIPLINARY ACTION – MANAGERS

Program managers are employees of the Tribe and shall be subject to the same requirements as specified in section 8.1 with the exception that the Tribal Chairman has the authority to discipline or terminate program managers.

CHAPTER 9 – GRIEVANCE PROCEDURES

Grievance procedures are accorded to all non-introductory regular employees and managers. The person filing a grievance shall be free from restraint, coercion, discrimination, or reprisal. A copy of the grievance procedure will be provided by request to any manager and employee against whom the disciplinary action is taken.

9.1 MANAGERS GRIEVANCE PROCEDURES

Within five (5) calendar days following any disciplinary action or termination of employment; the Program manager may submit in writing to his or her immediate supervisor who may be the Tribal Chairman, a summary of the reasons and any documentary evidence supporting why the said action should not have been taken against the Program Manager. If the immediate supervisor does not respond within ten (10) calendar days, the prior decision shall be deemed to be upheld. Failure of the disciplined or terminated program manager to submit a response to the disciplinary action within the time period specified shall constitute an automatic withdrawal of the grievance. With the exception of persons who have been terminated as described in § 9.3 of this Ordinance, the supervisor's decision shall be final. The program manager's submission and any supervisor responses will be kept in the program manager's file. Whenever a response is required in a certain number of days, the time computation does not include the day the action was taken, but begins as of the next following day and runs until the last day specified, unless the last day falls on a weekend or a Tribal Holiday, in which even the due date is the next Tribal workday.

9.2 EMPLOYEE GRIEVANCE PROCEDURE

Within 5 (five) calendar days following any disciplinary action or termination of employment, the employee may submit in writing to his or her immediate supervisor a summary of the reasons and any documentary evidence supporting why the said action should not have been taken against the employee. If the process does not resolve the grievance to the employee's satisfaction, the employee may submit a written grievance to the Program manager of the immediate department for which the employee works. If the Program manager of the immediate department for which the employee works does not respond within ten (10) calendar days, the prior decision shall be deemed to be upheld. Failure of the disciplined or terminated employee to follow the specified timelines shall constitute an automatic withdrawal of the grievance. With the exception of persons who have been terminated as described in § 9.3 of this Ordinance, the program manager's decision shall be final. The employee's submission and any supervisor responses will be kept in the employee's file. Whenever a response is required in a certain number of days, the time computation does not include the day the action was taken, but begins as of the next following day and runs until the last day specified, unless the last day falls on a weekend or a Tribal Holiday, in which even the due date is the next Tribal workday.

9.3 TERMINATED EMPLOYEES/PROGRAM MANAGERS

This section shall only apply in cases where an employee or program manager employment has been terminated. After appealing a termination according to the time frames set forth in § 9.1

and § 9.2 of this section all non- introductory, full time or part-time, regular employees and program managers if they choose to appeal their grievance may file a complaint in the Hoopa Valley Tribal Court according to § 5.1 of this Title. Terminated employees shall have thirty (30) calendar days from the date of termination to file a complaint with the Hoopa Valley Tribal Court. Whenever a response is required in a certain number of days, the time computation does not include the day the action was taken, but begins as of the next following day and runs until the last day specified, unless the last day falls on a weekend or Tribal Holiday, in which even the due date is the next Tribal workday. All untimely

complaints shall be dismissed, and the Hoopa Valley Tribal Court shall have no jurisdiction over the matter.

CHAPTER 10 – CLASSIFICATION AND COMPENSATION

10.1 CLASSIFICATION

- a) The position classification system groups jobs into categories based upon the type and difficulty of work performed and ranks the category according to predetermined standards. A classification system does not evaluate people. It evaluates and describes the duties of positions.
- b) The objective of the system is to assure employees that there has been an objective analysis of the place of their position within the organization's structure and that pay administration and other actions will be handled equitable for equivalent positions.
- c) A position is classified after a careful study of the duties and responsibilities assigned to the position. This process requires a systematic study of the organizational structures, position descriptions, an interview of the supervisor and the employee, and other techniques as needed to gather the necessary information about the position or positions concerned.
- d) If the assignment of an employee has changed substantially as to type or level of work, a revised position description should be written, and the position considered for re-classification.

10.2 COMPENSATION

- a) A current salary plan shall be maintained by the Hoopa Valley Tribe by conducting a periodic salary survey and job analysis.
- b) In setting salaries for a particular position, the following are considered:
 - Salaries for similar positions in the same category.
 - Availability of program funds.
 - Minimum wage (no employee shall receive less)
 - Outstanding qualifications of the applicant for the position.
 - Increases for superior performance or longevity.
- c) Most salaries are set at the first step of the salary range. The Council may authorize hiring at a higher step in the pay schedule upon the request of the program manager. The salary may be set at a higher step if the person selected has qualifications which significantly exceed the minimum qualifications specified in the job description. The basis for this determination must be documented and should be included in the personnel folder.
- d) Annual evaluations of regular employees may result in recommendations for salary increases.

- e) Merit salary increases are not automatic. Program managers shall recommend to the Personnel Director merit increases only for those employees who have demonstrated superior standards of work performance.
- f) The feasibility of a cost-of-living increase shall be determined and approved by the Tribal Council.
- g) Program managers and the Tribal Council must certify that the sufficient funds are able to cover the cost of salary increases as provided in these rules and that no budgetary or service deficiency will thereby be created.
- h) Pay days are bi-weekly and will be paid every other Thursday. Should a pay day fall on a holiday, the pay day shall be the preceding day prior to the holiday.
- i) Pay advances will not be granted except in emergencies. When requests for pay advances are made, they must be submitted in writing with evidence supporting the emergency and must be approved by the program manager and the Chief Financial Officer. Pay advances shall be limited to the amount of accrued compensation at the time of request.
- j) Premium or Hazard Pay may be temporarily granted by a majority vote of the Tribal Council, on a position-by-position basis, to employees who normally would be on administrative leave during an emergency declared by the Tribal Council, but are subsequently declared to be essential employees and called back to duty by the Tribal Chairman at the request of the Incident Commander for the disaster or emergency.
 - Premium Pay is defined as a night-time and weekend differential pay.
 - Hazard Pay is defined as pay to compensate front-line employees who are directly exposed during the declared emergency. A temporary hazard pay increase may not exceed 50% of the rate of pay at the time the emergency is declared.
 - If Federal law provides Premium or Hazard Pay greater than described above for a declared emergency, the Tribal Council may approve, by majority vote, that the Tribe complies with the Federal law in order to provide more benefits to its employees.

10.3 HOURS OF WORK

- a) The normal work week for full time employees shall be 32 hours.
- b) The normal schedule is Monday through Thursday, eight hours a day from 8:00 a.m. to 5:00 p.m., except where otherwise scheduled. One hour is allocated for lunch.
- c) A temporary flex-time schedule may be approved for an employee by the Tribal Chairman, providing all flex-time is fully justified and approved in advance.

- d) A temporary flex-time schedule may be approved for all employees by the Tribal Chairman in emergency situations such as adverse weather conditions.

10.4 OVERTIME AND COMPENSATORY TIME

It is expected that, from time to time, managers and other salaried personnel may be required to work hours more than the normal work schedule. Program managers and other salaried personnel are not eligible to receive overtime or compensation time.

- a) It is the policy of the Hoopa Valley Tribe that overtime work be held to a minimum and reserved for essential or emergency situations. Any and all overtime/compensatory time must be approved in advance by the immediate supervisor. Paid overtime must be approved by the immediate supervisor. Paid overtime must be approved by the program manager, providing funds are available.
- b) Non-management employees who work more than forty hours a week shall be paid 1 ½ times the hourly rate for each hour worked over forty hours in a week.
- c) Non-management employees shall receive double the hourly rate for all hours worked in excess of 60 hours each week and for hours in excess of eight hours on the seventh day of any work week. Any employee may be employed on the seventh workday in one week with no overtime pay when the total hours do not exceed thirty for the work week, or six in any work day.
- d) When no funds are available for overtime pay for non-management employees, 1 ½ hours of "comp" (compensatory) time shall be given for each hour of work over forty hours in a work week provided written authorization has been given.
- e) Comp-time shall be used as soon as possible, but at a mutually acceptable time for employee and supervisor. Employees may not accrue comp-time over a 40-hour balance, unless approved by the Tribal Chairman. An employee wishing to earn a comp-time must obtain the approval of his or her supervisor in writing before working the extra hours.
- f) Employees must punch out when attending meetings which do not pertain to their jobs, during working hours. They must use either compensatory time or annual leave, or leave without pay, provided their supervisor has approved the leave request.
- g) Employees may be required to spend time in travel status and in attending training sessions as part of their job requirements and are not eligible for overtime or compensatory time.

10.5 TIMECARD PROCEDURES

The Program manager is responsible for certifying the accuracy of payroll documentation. Neglect of responsibility for certifying payroll documentation shall be reflected in the manager's evaluation.

Every employee of the Hoopa Valley Tribal Council shall utilize the timecard procedures with the exception of management employees. Timecards will not be accepted or approved if they do not follow the procedures below:

- a) Timecards with time written in by hand, typed, or any other non-conformance are not acceptable. When an employee fails to punch in or out, the Immediate Supervisor must verify that the employee worked by initialing the timecard.
- b) Timecards will be punched at the start of each work day, at the beginning and end of lunch periods and at the end of the workday.
- c) Absolutely no one may punch a timecard in or out for another employee under any circumstances. Violation of this policy may be grounds for dismissal.
- d) Time punched in early at the beginning of the workday and punched out late at the end of the workday will not be allowed to be used towards compensatory time or overtime, unless prior written approval is obtained.
- e) Employees may not use annual, sick, or compensatory leave to compensate for tardiness.
- f) No employee shall work through their lunch period and add it to hours worked without prior written approval from the program manager in each occurrence.
- g) Employees who punch more than five minutes past their scheduled work time will be docked one-quarter of an hour of pay. Example if scheduled work time is 8:00am:
 - 8:01 am. No docking
 - 8:06 am. Dock fifteen minutes
 - 8:16 am. Dock one-half hour
 - 8:31 am. Dock forty-five minutes
 - 8:46 am. Dock one hour
 - 9:01 am. Is considered absent without official leave (A.W.O.L)
- h) Employees shall not take more than the allocated time for lunch period. Employees will be docked when late.
- i) Employees punching out early will be paid only the actual time worked.
- j) Employees are not allowed to carry timecards with them.

CHAPTER 11 – EMPLOYEE BENEFITS

11.1 HOLIDAYS

- a) The following holiday are recognized as paid holidays by the Hoopa Valley Tribe:
- New Year's Day
 - Martin Luther King Jr. Day
 - President's Day
 - Memorial Day
 - Independence Day
 - Sovereign Day
 - Labor Day
 - Day of the Boat Dance
 - Indian Day (Last Friday in September)
 - Veteran's Day
 - Thanksgiving Day
 - Friday after Thanksgiving
 - Christmas Day
- b) After three (3) years of service, employees will be eligible for one floating holiday each year. The floating holiday may be added to vacation time.
- c) Floating Holidays must be used within the fiscal year they are accrued otherwise they will be lost; floating holidays do not carry over into the following fiscal year.
- d) Employees eligible to receive floating holidays who have separated from tribal employment before a floating holiday is used, shall be entitled to payment for the accrued floating holiday.
- e) Holidays falling on Saturday shall be observed on the Thursday preceding. Those falling on Sunday shall be observing the following Monday.
- f) Part-time employees and temporary employees may receive a paid holiday if such a holiday falls on one of their regular workdays. Part-time employees who work on a regularly scheduled work week, but with unequal hours per day, may be paid for the hours regularly scheduled for that day.
- g) Employees wishing to observe religious holidays or participate in religious ceremonies during normal working hours must take annual leave.

11.2 LEAVE POLICY

The transfer of accrued leave of any type from one employee to another is not permitted. The Tribal Council reserves the right to appoint or employ additional employees to serve in a temporary position in place of a regular employee who is on official leave.

- h) Leave is any authorized absence, with or without pay, during regularly scheduled work hours and shall not exceed six (6) months. Requests for such leave must be in writing and must establish reasonable justification for approval of request.

- i) Leave is granted on the basis of the work requirements and whenever possible, the personal wishes of the employee. Leave must be approved in advance by the program manager.
- j) Absence without leave (AWOL), is an unauthorized absence and shall be subject to disciplinary action.
- k) Any employee failing to return to work at the end of an authorized leave and failing to contact the program manager within three (3) working days is deemed to have resigned.
- l) All leaves of absence for periods in excess of ninety (90) days must be approved by the tribal chairman. Such leave will not be approved for an employee who is accepting employment outside Tribal Government.

11.3 ANNUAL LEAVE

- a) All regular employees and program managers accrue annual leave from the date of employment, but no annual leave may be taken until the completion of the Introductory period.
 - 0 – 3 years of service 8 hours per month
 - 4 – 10 years of service 12 hours per month
 - 11 – 15 years of service 14 hours per month
 - 16 – 20 years of service 16 hours per month
 - 21 or more years of service 20 hours per month
- b) Annual leave for part-time regular employees is accrued on a prorated basis.
- c) An authorized holiday falling within an employee's approved leave will not be counted as annual leave time.
- d) Vacations are to be arranged at times that are most convenient for the Hoopa Valley Tribe, although the individual employee's preference will be given due consideration. When two or more employee's desire the same leave time, and only one can be spared, the choice will be given to the senior employee. Annual leave will be taken during the period of the grant or calendar year.
- e) Annual leave maximum carryover per year is 240 hours. If the hours are in excess of the carry over amount, accrual of annual leave will cease until annual leave balance recedes to 240 hours or less at which time the accrual will again commence.
- f) An employee who terminates during the initial introductory period shall not be entitled to annual leave. Those employees who have completed their initial introductory period and are separated from Tribal employment, shall be entitled to payment for accrued leave. In no case shall payment be for more than the maximum accumulation. In case of death, compensation for accrued annual leave shall be paid in the same manner that salary due is paid.

- g) It is the policy of the Tribal Council that all employees take annual leave. It is the responsibility of program managers to require their personnel to take vacations during the year in which leave is earned. Payment of money in lieu of accrued leave will not be permitted.
- h) When the transfer of an employee, from one Tribal department/entity to another Tribal department/entity occurs, the annual leave accrued will be transferred providing funding is available.

11.4 SICK LEAVE

Sick leave may be granted for illness, disability, pregnancy, or other medical purposes.

- a) Regular employees earn sick leave at a rate of one day per month. Part-time Regular employees accrue sick leave on a pro-rated basis. Temporary employees are not entitled sick leave benefits.
- b) Sick leave credit accrues from the date of hire, but shall not be granted during the employee's introductory period.
- c) Sick leave may be accrued on an unlimited basis.
- d) Sick leave may only be used when an employee is ill/injured or a member of the employee's immediate family is ill, injured or dies. Immediate family is defined in section 1.5 of this policy.
- e) Payment of sick is dependent upon the employee notifying the immediate supervisor in the morning, within one hour of the employee's scheduled start time, on the first workday of illness. Medical certification from a doctor is required should the start period of illness exceed three (3) days.
- f) Misuse of sick leave may result in disciplinary action.
- g) Upon termination of employment, no payment shall be made for accumulated sick leave.
- h) Sick leave not exceeding ninety (90) calendar days may be approved by the program manager. If the employee is a program manager, the leave must be approved by the Tribal Chairman. The following conditions must apply.
 - Written request submitted by employee or representative.
 - A Doctor's excuse must be submitted.
 - May or may not be in excess of accrued sick leave.
- i) Sick leave in excess of ninety (90) calendar days must be approved by the Tribal Chairman. Sick leave in excess of six (6) months may only be granted by Council action, provided reasonable

justification is submitted. Prior to any sick leave being granted the conditions listed in section 11.4(h) must be met.

- j) Employees who are off work due to extended sick leave in excess of six (6) months may be terminated at the discretion of the Council.

11.5 MATERNITY LEAVE

- a) Employees shall be permitted to use accrued and sick leave for purposed relating to pregnancy or childbirth. Any additional time beyond the sick and/or annual leave balance will be counted as leave without pay.
- b) A combination of leave and leave without pay may be granted for a period of up to six months for maternity purposes.
- c) The employee is responsible for making known in advance his/her intention to request leave for maternity purposes including the type of leave, appropriate dates, and anticipated duration in order to allow the Tribe time to prepare for any staffing adjustments which may be necessary.
- d) The employee's position may be filled on a temporary basis during the absence.
- e) The employee will have re-employment rights to the former position or a position of similar rank and pay.

11.6 ADMINISTRATIVE LEAVE

Paid administrative leave may be granted at the discretion of the Tribal Chairman and shall be granted only for the time and day specified. Employees who work during administrative leave will be paid at their regular wage. No additional compensation will be paid.

11.7 MILITARY LEAVE

A regular employee or program manager who is a member of any reserve unit of the United States Armed Forces shall be allowed a leave of absence for required training or duty up to 15 working days a year. The employee shall be paid the difference between compensation received while on reserve duty and regular compensation rates paid the employee by the Hoopa Valley Tribe.

11.8 BEREAVEMENT LEAVE

Bereavement leave up to ten days (64 hours), per fiscal year shall be granted for death in the immediate family. Immediate family is defined as spouse, son, daughter, father, mother, sister, brother, grandmother, grandfather, aunt, uncle, niece, nephew, and the following in-laws: son, daughter, brother, sister, mother, and father.

11.9 JURY DUTY

An employee shall be granted pay for jury duty. An employee called for such duty shall advise the program manager as soon as summoned. The employee shall receive the difference between his/her regular salary and the compensation received for the jury services not to exceed 8 hours per day. (The employee may retain any compensation paid for mileage.) With the exception of the workers' compensation benefits the employee will continue to receive all benefits to which they may be entitled to during the period he or she is on jury duty.

11.10 ELECTION DAYS

Primary and General Election Days will not be considered as holidays. Employees are expected to vote during non-working hours.

11.11 SOCIAL SECURITY

All employees are covered under the provisions of the Social Security Act and are eligible for the benefits which are provided.

11.12 GROUP INSURANCE PLANS

Employees are eligible for group health plan benefits starting the first of the month after completing 60 days of employment regardless of introductory period status in Section 3.2.1.

In accordance with provisions of the Affordable Care Act (ACA) and in order to comply with the mandate **for purposes of group health insurance coverage only** the following will be applicable.

Full Time is considered an employee who works 30 hours or more per week for more than 120 days in a year. This shall be regardless of employee classification pursuant to Section 3.2 Employment Status of this ordinance.

Hours of Service is:

- Each hour for which an employee is paid, or entitled to payment for the performance of duties for the employer, and
- Each hour for which an employee is paid, or entitled to payment by the employer for a period of time during which no duties are performed due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence.

Group health insurance coverage on the employee and dependent(s), if applicable, may continue for a maximum of six (6) months while the employee is on medical leave and/or disability leave. Employee will be responsible for payment of their portion of the dependent coverage.

Employees on any other type of unpaid leave will be responsible for total insurance premium. Should an employee fail to make premium payments, employee and dependents (if applicable) will be terminated from the group health insurance plan and notified of their right to continue coverage under COBRA.

11.13 *OPTIONAL/ADDITIONAL INSURANCE COVERAGE*

Employees may purchase additional insurance coverage for themselves and/or dependents. This is called the Flexible Benefits Plan. Interested employees may contact the Insurance Administrator.

11.14 *FRINGE BENEFITS STATUS DURING INTRODUCTION PERIOD*

This section applies to only new employees serving an introductory period to the Tribe. It does not apply to employees who are serving a period of introduction to a position as a result of being promoted.

- a) Leave. No leave other than authorized without pay or military leave shall be taken by an employee during the introductory period.
- b) Accrual of Leave. Sick leave and annual leave benefits based upon or earned in connection with time worked shall accumulate during an employee's introductory period. The employee shall not be entitled to receive leave benefits during the introductory period, other than compensatory time.

11.15 *WORKERS COMPENSATION/UNEMPLOYMENT INSURANCE*

The Hoopa Valley Tribe pays premiums for Workers Compensation Insurance and Unemployment Insurance. All accidents shall be reported immediately after the event.

CHAPTER 12 - TRAINING

12.1 *GENERAL POLICY/OBJECTIVE OF THE TRIBAL TRAINING PROGRAM*

The Council encourages and promotes training opportunities for all Tribal employees provided that services they render to the Tribe may be more effective. Preference in training will be afforded to Tribal member employees except in instances in which training is necessary for a specific employee. The Personnel Director shall assist program managers in meeting the training needs of the personnel of the departments; and in cooperation with the program manager, shall encourage the development of department and inter-departmental training programs designed to meet personnel needs and to prepare the Tribal employees for promotion to positions of greater responsibility.

The objective of the Tribe's training program is to improve the ability of Tribal staff to provide services to the members of the Hoopa Tribe and community. The Council recognizes the training function to be essential to the development of technical and administrative skills of Tribal employees.

12.2 *EDUCATIONAL LEAVE POLICY*

The Hoopa Valley Tribal Council, a sovereign government, has the responsibility to exercise Tribal rights and promote the welfare of its membership in accordance with the constitution and Bylaws of the Hoopa Valley Tribe

In order to operate an effective governmental system, the Council encourages and supports educational and training development for the purpose of increasing productivity and capability of Tribal personnel. In order to achieve this goal, the Council hereby establishes the following conditions and guidelines to govern Tribal personnel development and training. These requirements shall apply to all Tribal entities and departments.

The guidelines identify two general categories of training that will enable the Council to develop more effective personnel performance and capability.

a) Employee Development:

Based upon program or department needs and program manager recommendations, employees may be granted an opportunity to attend workshops, seminars, classes, and other training sessions related to specific job requirements.

b) Accelerated or Extended Training:

Based upon priorities approved by the Council and recommendations by program managers, employees may be granted leave, for a pre specified time period, with pay to attend an accredited institution or recognized training facility in order to acquire specific job-related knowledge and capabilities that will benefit and enhance overall Tribal management and technical development. All accelerated or extended training opportunities shall be conducted in accordance with a written contract.

12.2.1 EDUCATIONAL LEAVE

Educational leave is defined as leave granted to Tribal employees and program managers for the purpose of attending an accredited institution of higher education or other recognized training facility for a period of thirty (30) days or more.

a) Eligibility for Educational Leave with Pay:

Eligibility for educational leave with pay shall be limited to employees enrolled in or preparing to meet the entrance requirements for a planned academic program related to the Tribal or departmental needs. Educational leave will not be approved if the services of the department diminish. Educational leave shall be limited to full-time, employees who have been employed by the Council for a period of at least two (2) years.

b) Salary or Stipend:

Requests for educational leave with pay shall detail salary request; costs of tuition, books and supplies, travel, housing, and other costs; grants, scholarships, and stipends from any source for the period of leave.

c) Contractual Arrangements:

Employees who are granted educational leave with pay shall enter into a contractual agreement in which the applicant agrees to provide services in a manner determined by the Council and the program manager for a period of obligated service equal to one year for each year of educational leave received or two years, which is ever greater.

- The program manager shall recommend and submit a proposed educational plan and contract to the council for approval by resolution prior to the leave being approved.
- An educational or training plan must be developed by the employee, program manager, Educational Director, and an advisor for the educational institution. The Educational plan shall include an estimated completion date, required units per term, academic performance requirements, expected results and benefits, anticipated job position to be obtained, a financial assessment which identifies the total and yearly projected costs and financial resources available to meet the employee's personal and educational expenses.
- The Council shall be entitled to recover an amount equal to the educational costs, including associated funds awarded, plus interest at 10% per annum from employees who fail to begin or complete the period of obligated service incurred under contract for any reason, other than those expressly waived by the Council. Failure of the employee to perform his/her obligations shall be considered a debt to the Hoopa Valley Tribe.

d) Performance:

The student must maintain full-time enrollment, or the number of units expressly agreed upon in the contractual agreement, until completion of the course of study for which the educational leave is provided.

- The student must maintain a Grade Point Average (GPA) of at least 2.0 while enrolled in the course of study for which the educational leave is provided.
- The student must submit a class schedule prior to the beginning of each semester for review by the program manager, the Educational Department, and the Personnel Department.
- The student must submit grades at the end of each semester to the program manager, the Educational Department, and the Personnel Department.
- The student must serve one year of obligated service for each year the educational endowment is provided, or two years, whichever is greater, upon completion of course of study (this requirement may be waived by the council in the event there is no employment opportunity within the Hoopa Valley Tribal Government).

12.2.2 EDUCATIONAL CO-OP. (section reserved)

12.3 EXECUTIVE MANAGEMENT TRAINING PROGRAM

The purpose of the Tribal Executive Management Training Program is to provide training and other opportunities to Tribal Member program managers in the areas relating to the executive management and functions of the Hoopa Tribal Government. To the greatest extent possible program managers participating in the Tribal Executive Management Training programs will be provided opportunities to work in the areas involving the legislative, judicial, and administrative functions of the Tribe. Executive Training positions will be no longer than one (1) year. The manager will be guaranteed that the program manager position will be available after completing the Executive Management Training Program. Once appointed in a position under the Executive Management Training Program, the manager will be evaluated based on the performance standards established for that position. The Council may provide funds for this program in the Tribal budget.

12.4 RESPONSIBILITY FOR DELIVERY OF TRAINING

The Personnel Department is responsible for all training programs involving persons from more than one department. Individual program managers will be responsible for training that affects only members of their individual departments.

12.5 TRAINING CATEGORIES

The following categories of training are established to meet the objectives of the training program:

a) Job related Training:

This category includes training to provide skills or knowledge not usually available in the labor market. Included is training:

- To meet requirements of Tribal Programs.
- To improve proficiency in one's present position.
- To improve performance of one's present job in terms of administrative procedure and inter-department coordination.

b) Employee Development Training:

This category includes training to improve general knowledge and skill in a wide range of positions in Tribal Government. Included is training:

- In basic skills (written secretarial skills, language, mathematics).
- To prepare for future positions in the Tribal structure (professional development activities, technical and vocational training).

12.6 IDENTIFICATION OF TRAINING NEEDS

All Tribal training activities will be scheduled in response to needs identified by Tribal employees and program managers in individual development plans completed during the time of annual performance appraisal.

12.7 BUDGETING FOR TRIBAL TRAINING

The Hoopa Valley Tribal Council will appropriate budget amounts to support Tribal training. Training programs which benefit personnel of only one department will be budgeted for by that department in coordination with the Personnel Director.

12.8 EVALUATION OF TRAINING

Employees attending training courses will be asked to complete an evaluation form to determine if the training met Tribal Objectives.

CHAPTER 13 – EEO COMPLAINTS

13.1 EEO COMPLAINTS

Any applicant or employee who alleges discrimination in any aspect of employment may first discuss the problem with the Personnel Department, and if the problem is not resolved, file a complaint through the applicable EEO grievance process. Information on that process shall be located at the TERO office. The applicant or employee may also retain the right to file a complaint with an applicable Federal agency exercising authority matters of discrimination (e.g., Equal Employment Opportunity Commission).

CHAPTER 14 – RECORD KEEPING

14.1 PERSONNEL RECORDS

- a) An individual personnel file folder shall be maintained for each employee beginning at the date of hire. The folder shall be maintained through the entire length of employment. Upon separation of employment, the folders are transferred to inactive files and retained as a permanent section of Tribal Records.
- b) Access to personnel folders shall be limited to the following authorized personnel: Tribal Chairman, the Office of Tribal Attorney, Personnel Director, program manager and employee's supervisor to only on a "need to know" basis. Before any information is released from an employee's personnel folder to non-authorized persons the Personnel Director must obtain written consent from the employee.
- c) All information pertaining to an employee shall be kept in the personnel folder. This includes, but is not limited to: applications for employment and promotions; test results, if any; reference

letters; formal education records; correspondence pertaining to employment or promotion; current job description; performance evaluations; records of changes in job, salary, grade, tenure, copy of driver's license, if required for the job; records of any pre-employment physical; records of disciplinary actions; awards, letters of appreciation, etc.; certificates from completed training.

CHAPTER 15 – EMPLOYEE CIVIL EMPLOYMENT ACTIONS BROUGHT AGAINST THE TRIBE

15.1 CIVIL ACTIONS

All non-introductory, full-time, regular employees and managers may file non-frivolous complaints related to their termination from employment with the Hoopa Valley Tribe in accordance with Hoopa Valley Tribal Code § 1.1.04(f). Complaints must be filed with the Hoopa Valley Tribal Court within thirty (30) calendar days of the date of termination. The time computation does not include the date of the termination, but begins as of the next following day and runs until the last day specified, unless the last day falls on a weekend or a Tribal Holiday, in which even the due date is the next Tribal work day. The complaint shall be subject to the statute of limitations described in Hoopa Valley Tribal Code § 2.3.13(b).

15.2 GOVERNING LAW

This ordinance shall be governed by, constructed by, and enforced in accordance with the laws of the Hoopa Valley Tribe.

15.3 SOVEREIGN IMMUNITY

Nothing in this ordinance shall be deemed or constructed to be a waiver of the sovereign immunity of the Hoopa Valley Tribe, its officials, its entities, or employees acting within their official or individual capabilities, except to the limited extent provided pursuant to Hoopa Valley Tribal Code § 1.1.04 (f).