

Before a demotion may be implemented, the Employment Office must verify that an available position exists. No employee may be demoted without prior authorization from the Deputy Officer and the Executive Committee. Deputy Officers may be demoted by the Principal Chief. Demotions are subject to appeal.

D. ~~Transfer.~~ A transfer is defined as a move from one position to another, within or outside an employee's current division that is assigned the same or lower level of authority, responsibility and pay grade. Transfers may be voluntary or involuntary as long as the employee meets the minimum requirements of the position into which the employee is being transferred. All transfers must be supported by substantial justification will be subject to the approval of the relevant Deputy Officer and the Executive Committee. In the event of a reduction in force or reorganization, affected employees may be transferred into any vacant position for which they meet the minimum requirements at the pay grade for that vacant position. Transfers are not subject to appeal and the procedures outlined in Article 14 do not apply.

E. ~~Employment records and background checks.~~ All employment records pertaining to an employee, including corrective actions and criminal background checks, will be permanently retained in the employee's file at the Employment Office. Should an employee separate from the Tribe and then subsequently apply for reemployment, the Employment Office will complete a criminal history check of that employee for the separation period as part of the application process.

(Ord. No. 154, 5-3-2012)

ARTICLE 6. ~~PAY AND AWARDS~~

Sec. 6.00. ~~Pay scales.~~

~~Policy.~~ It is the policy of EBCI to administer pay in such a manner as to attract, motivate and retain the most highly qualified personnel available. EBCI will evaluate positions in a consistent manner and place them in an appropriate pay structure that is competitive within local community and region. The EBCI intends to compensate each employee on the basis of his or her performance and contribution to the accomplishment of EBCI's objectives and to provide incentives toward individual growth through a merit increase program. [Note: See Section 6.04 for pay increase policies and procedures.]

(Ord. No. 154, 5-3-2012)

Sec. 6.01. ~~Pay status.~~

A regular employee is in pay status when:

- ~~Working;~~
- ~~On recognized holidays; or~~
- ~~Using authorized leave.~~

(Ord. No. 154, 5-3-2012)

Sec. 6.02. ~~Overtime and other pay issues.~~

A. ~~Overtime.~~ Overtime is paid on the regular payday for the pay period in which the overtime is worked. The EBCI does not allow compensatory time (comp time) or flex time to be granted in lieu of overtime compensation.

- (1) ~~Non-exempt employees.~~ Unless an employee's personnel file contains a determination that the employee is exempt based on the criteria set forth in the FLSA and its regulations, the

~~employee shall be deemed to be non-exempt. Overtime pay shall be paid to non-exempt EBCI employees at the rate of 1.5 times the regular hourly rate of pay for time worked over 40 hours during that employee's regularly assigned seven-day period, leave hours may not be used in calculating overtime. Under general circumstances, overtime must have prior approval of the appropriate supervisor. If the employee works on a holiday and receives premium holiday pay as specified in subsection 7.00(D), then no additional overtime premium shall be allowed for hours worked on the holiday.~~

~~(2) *Non-covered employees.* Non-covered employees shall not receive overtime. These include such employees as elected officials, their personal staff members (political appointees), policy-making appointees, and legal advisors. Every non-covered employee's personnel file shall contain a written determination that the employee is not covered by the FLSA, signed by the Employment Office Manager.~~

~~(3) *Exempt employees.* Employees who are categorized as "exempt employees" are not eligible to receive overtime compensation. The Benefits Office will determine which employees are designated as exempt when the job description is certified and will utilize the definition of exempt employee as defined by the FLSA in its determination process. The Benefits Office will make its determination in writing, with a copy placed in the employee's permanent employment file and copies forwarded to the Payroll and Budget Offices for their records?~~

~~(4) *Fire Protection and Law Enforcement employees.* Non-exempt employees in fire protection and law enforcement are scheduled over a 28-day work period, and shall receive overtime compensation when their hours of work exceed the amount specified in applicable FLSA regulations for such employees. Fire Protection shall work 212 hours in the 28-day work period and Law Enforcement employees shall work 171 hours in the 28-day work period before overtime is compensated.~~

~~B. *Equal pay.* EBCI shall not discriminate on the basis of gender in the payment of equal wages for equal work. An employee of either gender in the same department will be paid equally for jobs requiring comparable education, skill, effort, and responsibility performed under similar working conditions. This does not prohibit salary differential due to any merit increment or seniority. The Executive Committee, Deputy Officers, and the appropriate supervisors are responsible for ensuring compliance with these pay provisions.~~

~~C. *Pay during a State of Emergency.* Essential employees who, because of an emergency, are required to work beyond their normally scheduled work times shall be compensated during these emergency situations at the rate of one and one-half times their regular rate of pay regardless of whether the employee is exempt, non-exempt or non-covered. This subsection shall apply only when a formal State of Emergency has been declared by the Principal Chief.~~

~~D. *Seniority bonus.* Beginning in FY 2007 and every year thereafter, the Tribe shall pay regular full-time employees who have over 15 years of continuous service a bonus equal to one percent of their yearly wage, regular full-time employees who have 20 years of continuous service a bonus equal to two percent of their yearly wage, calculated in reference to their wage in the fiscal year in which they are eligible to receive the bonus. The bonus shall be in addition to any merit increase that the employee might otherwise receive. The bonus shall not be added to the salary level. An otherwise eligible employee shall not receive the bonus if they do not work more than 1,000 hours in the fiscal year in which they are claiming eligibility, or in any fiscal year in which their employment is involuntarily terminated.~~

~~E. *Tribal minimum wage.* Beginning on October 1, 2011, and every fiscal year thereafter, the minimum wage for regular full-time employees shall be \$9.00 per hour. Thereafter, the Finance Department shall review the adequacy of the minimum wage at the end of every two fiscal years to coincide with review of the Personnel Policies and Procedures Manual.~~

(Ord. No. 154, 5-3-2012)

~~Sec. 6.03. Time records.~~

~~Every employee is responsible for accurately recording time worked. Time worked is all the time actually spent on the job performing assigned duties. All supervisors and managers shall keep records of hours worked and wages paid for each employee subject to the minimum wage and overtime pay requirements. Records must be preserved for at least three (3) years.~~

~~(Ord. No. 154, 5-3-2012)~~

~~Sec. 6.04. Pay.~~

~~A. Pay structure. The pay structure approved from time to time by resolution of the Tribal Council covers all employees. The pay structure is reviewed periodically by EBCI to ensure that it remains competitive with local, regional and industry market pay. Increases in the pay ranges do not result in a general "across the board" increase. Employees will be rewarded based on their individual performance. The salary level is a numerical level assigned to each job that has been formally described and evaluated. This level reflects the job's evaluation and the dollar value currently being paid in the competitive labor market for positions in that level.~~

~~B. Establishing rate of pay for employees. Each salary range is assigned a dollar range that includes a minimum, midpoint and maximum. Employees should not be paid below the pay level minimum.~~

- ~~1. Regular full-time employees' rate of pay upon initial hiring is based on the pay levels for that position taking into consideration the qualifications of the employee and how they meet the required knowledge, skills, abilities, and experience as described in the job description. Employees who are fully qualified and experienced in all aspects of the job should normally be paid at or near the pay level midpoint. The additional range above the midpoint to the maximum level of pay provides opportunity for the individuals pay growth and opportunity for pay differentiation based upon performance.~~
- ~~2. Employees not considered "regular" employees (Sec. 5.03(C)) will be paid outside the formal pay scale program. The hourly rate paid will be based upon recognition of market requirements and may have no relationship to the pay for regular full time and regular part-time employees.~~
- ~~3. Regular part-time employees will receive a prorated pay based on the hourly rate corresponding to the pay level of that position.~~

~~C. Salary adjustments.~~

- ~~1. Equity Pay Adjustment. A special pay adjustment may be made in certain instances as a means of recognizing and alleviating pay compression brought on by increases in starting pay for entry level positions. A manager recognizing the need for a special pay adjustment must submit a request with a recent performance review and supporting documentation to the Executive Committee. Special pay adjustments should be given no more than once a year to any employee and may be given when pay ranges are adjusted and employee's pay must be adjusted to meet the new range minimum or when internal equity problems need to be addressed with corrective measures.~~
- ~~2. Transfer. A position transfer does not warrant any type of promotional increase in pay. The former manager and the new manager will collaborate on the performance review and recommend an appropriate pay increase at the annual review.~~
- ~~3. Demotion. If changing conditions or unsatisfactory performance requires a demotion, a downward adjustment to the employees pay shall be made if necessary to meet the pay scale for the new position.~~
- ~~4. Promotion. Promotional adjustments are to be given at the time of the promotion. In determining the amount of promotional increase identify the level at which the employee is currently being paid and assume satisfactory performance. The increase should not normally take an employee~~

~~beyond the pay range midpoint for the new position. The increase should be at least to the minimum range for the new position.~~

5. ~~Merit awards. Salary increases are based upon individual performance, as determined in the performance evaluation process. No increase will be awarded to any employee receiving an overall unacceptable performance evaluation. The annual Salary Increase Matrix shall be approved during the annual budget process by Tribal Council resolution. Special rules will apply to employees in the following situations:~~

- ~~a. Employed with the EBCI for more than 90 days and less than one year;~~
- ~~b. Employee is within 90 day probationary period at fiscal year end;~~
- ~~c. Employee has been employed with EBCI for one year in two different positions;~~
- ~~d. Employee is over maximum salary for grade may be eligible for cash award;~~

~~See Merit Increase Procedures as adopted by Executive Order.~~

- D. ~~Acting assignments. An acting assignment of an employee to a higher level position for a minimum of one month shall qualify that employee to be paid at a higher rate provided for the temporarily assigned position. Periods of less than one month will not be compensated as an upgrade. This assignment must have written concurrence of the deputy officer.~~

- E. ~~To the extent that the policies and procedures attached to Resolution No. 896 (2003) are inconsistent with this Article, they are hereby rescinded.~~

(Ord. No. 154, 5-3-2012)

ARTICLE 7. ~~HOLIDAY AND LEAVE POLICY~~

Sec. 7.00. ~~Holidays.~~

~~EBCI will grant holiday time off to employees on the following holidays:~~

- ~~• New Year's Day (January 1)~~
- ~~• Martin Luther King, Jr. Day (third Monday in January)~~
- ~~• President's Day (third Monday in February)~~
- ~~• Easter (Good Friday)~~
- ~~• Memorial Day (last Monday in May)~~
- ~~• Independence Day (July 4)~~
- ~~• Labor Day (first Monday in September)~~
- ~~• Cherokee Heritage Day (Wednesday of Fall Festival Week)~~
- ~~• Veteran's Day (November 11)~~
- ~~• Thanksgiving (fourth Thursday in November)~~
- ~~• Tsali Day (Friday after Thanksgiving)~~
- ~~• Christmas (December 25) and two additional days designated by the Principal Chief~~

~~Any additional holidays require Tribal Council approval.~~

- A. ~~Holiday determination on weekends. A recognized holiday that falls on a Saturday will be observed on the preceding Friday. A recognized holiday that falls on Sunday will be observed on the following Monday. Any departure from this schedule shall be at the discretion of the Principal Chief.~~

- ~~B. *Regular holiday pay.* Regular full-time employees (including employees hired to fill regular positions who have not completed their probationary period) who are excused from work on a holiday shall be paid their regular rate of pay for that day. Regular part-time employees who are excused from work on a holiday shall be paid their regular rate of pay for their scheduled number of hours of work for that day (not to exceed 8 hours in a 24-hour period). Regular holiday pay will be used if a recognized holiday falls during an eligible employee's paid absence (e.g., annual or sick leave).~~
- ~~C. *Rules for employees not scheduled to work on a holiday.* If a regular employee's (or an employee hired to fill a regular position who has not completed his/her probationary period) usual work hours do not fall on a holiday, the appropriate supervisor will designate other equivalent time off for the employee or will pay the employee for the appropriate number of additional hours of regular holiday pay for that pay period. Such employees shall not be entitled to premium holiday pay, and this subsection shall not apply to employees who are eligible for premium holiday pay.~~
- ~~D. *Premium holiday pay.* If a regular non-exempt employee is required to work on a holiday, the employee shall earn pay at a rate of 2.5 times their usual pay rate for all hours worked on that day. For pay purposes, the holiday begins at 0001 hours on the designated holiday and continues until 2400 hours. If the employee works any time during the 24-hour period, s/he will be paid holiday pay, only for the time worked. (No additional adjustment will be made for overtime work on holidays).~~

(Ord. No. 154, 5-3-2012)

~~Sec. 7.01. Annual leave.~~

~~Annual leave is time off in pay status for personal use such as vacations and personal business. (Note: any extended leave or any combination of leave i.e., use of accrued annual leave, or use of accrued annual leave plus accrued sick leave, etc. may affect eligibility for insurance benefits in accordance with applicable plan documents and procedures.)~~

- ~~A. *Authorization and documentation.* Appropriate supervisors shall authorize annual leave; annual leave may be denied if employee's absence interferes with departmental operations. Employees should request annual leave at least three days in advance. In the case of emergencies or special circumstances, less notice may be required at the discretion of the supervisor. (Note: Special rules exist for family/medical leave as provided in Section 7.08. Also, although probationary employees are allowed to accrue annual leave, use of such leave is contingent upon their successful completion of the probationary period. Failure on the part of the probationary employee to successfully complete the probationary period will result in a forfeiture of the leave.)~~

~~Annual leave shall be earned, calculated, and documented on a biweekly basis by the finance office as part of each employee's payroll record. An employee's accrual rate will be based on the time in continuous service which has elapsed since the employee's date of hire. Earlier service with the Tribe or a related Tribal entity shall not be counted in determining the employee's years of service for purposes of calculating the employee's annual leave accrual rate. (Exception: See Section 5.06)~~

- ~~B. *Regular full-time employees (and probationary employees).* Annual leave is accrued at the following rates per pay period based on hours paid:~~

Years of Service	Annual Leave Earned
0-yr. to completion of 3 yrs.	4 hours

4 yrs. to completion of 14 yrs.	6.75 hours
15 yrs. or more	8 hours

Reference. Sec. 5.07.

Honorably discharged veterans shall accrue annual leave at an increased rate per pay period as follows:

Years of Service	Annual Leave Earned
0 yr. to completion of 3 yrs.	6 hours
4 yrs. to completion of 14 yrs.	8.75 hours
15 yrs. or more	10 hours

C. ~~Regular part-time employees (and probationary employees).~~ A regular part-time employee shall earn annual leave on a pro-rated basis per pay period.

Examples:

30 hrs. worked for employees with 0—3 yrs. employment	3 hours
30 hrs. worked for employees 4—14 yrs. employment	4, 5 hours
30 hrs. worked for employees with more than 15 yrs. employment	6 hours

D. ~~Minimum annual leave.~~ Annual leave must be taken in 15-minute increments.

E. ~~Transfer of annual leave.~~ An employee being transferred from one program to another may choose to:

- ~~Transfer accrued annual leave; or~~
- ~~Receive a lump sum distribution of accrued annual leave upon approval of the appropriate supervisor and appropriate Deputy.~~
- ~~Annual leave may not be transferred between employees.~~

~~F. Carryover of annual leave. Annual leave may be carried over from year to year up to a maximum of 480 hours at the end of each calendar year.~~

~~G. Other uses of annual leave:~~

- ~~• Annual leave may be used in lieu of sick leave after all sick leave is exhausted. (Note: in no event shall amounts paid to an employee through this leave policy in conjunction with the Tribe's disability insurance—i.e., where 100 percent of the premiums for such insurance are paid by the Tribe—exceed the amount that would be paid out normally during regular work weeks to the affected employee.)~~
- ~~• When an employee receives compensation from an outside source for services rendered during tour of duty, (e.g. service on boards, task forces providing Tribal technical consulting assistance, or committees) the employee must take annual leave or leave without pay and keep the compensation.~~

~~H. Annual leave at separation. An employee shall be paid in a lump sum for accumulated annual leave when the employee terminates or is discharged from employment. (Note: this does not apply to employees who have not successfully completed their probationary period. Termination or resignation by such employee prior to successful completion of the 90-day period shall result in a forfeiture of the annual leave accrued.) Payment of this amount will not be paid until all administrative appeals have been exhausted.~~

~~(Ord. No. 154, 5-3-2012)~~

~~Sec. 7.01A. Maternity/paternity leave.~~

~~Maternity/paternity leave is time off in pay status for up to 30 days for employees in connection with the birth or adoption of their child. If the employee is taking Tribal Family and Medical Leave pursuant to Section 7.11, then maternity/paternity leave and TFML shall run concurrently. This policy shall be effective on January 1, 2017.~~

~~(Ord. No. 361, 10-20-2016)~~

~~Sec. 7.02. Sick leave.~~

~~Sick leave is a privilege granted by the EBCI which provides an employee a paid absence from work for reason of personal illness, injury or disability. (Note: Employees who have been hired to fill regular positions but have not successfully completed their probationary period shall accrue sick leave but shall not be allowed to use this leave until they have successfully completed their probationary period.) It is a benefit provided by the Tribe to protect an employee's income while sick. Sick leave shall not be used indiscriminately and in no event shall amounts paid to the employee through this sick leave policy in conjunction with the Tribe's disability insurance (i.e., where 100 percent of the premiums for such insurance is paid by the Tribe) exceed the amount that would be paid out normally during regular work weeks to the affected employee.~~

~~Frequent claiming of benefits under this rule will constitute grounds for the assumption by the Tribe that the physical condition of the employee is below the standard necessary for the proper performance of duties. Likewise, evidence of abuse of this benefit will constitute grounds for corrective action~~

~~(Note: any extended leave or any combination of leave—i.e., use of accrued sick leave or accrued annual leave, etc. may affect eligibility for insurance benefits. Appropriate supervisors shall notify the Benefits Office whenever an employee is out on leave in excess of one week. Also note that when applicable, family/medical leave, as provided in section 7.08, will run concurrently with any accrued annual or sick leave taken and the TFML certification rules shall apply).~~

~~A. Authorization, verification, and documentation.~~

~~• Authorization: Requests for sick leave shall be made by the employee to the appropriate supervisor on a daily basis except when an extended illness has received prior approval.~~

~~• Sick leave may be granted for:~~

- ~~1. Illness or injury which prevents an employee from performing their usual duties;~~
- ~~2. Visiting a physician, dentist, or other health professional for an employee's treatment, diagnosis, and/or screening; or~~
- ~~3. Legal quarantine due to a contagious disease in the employee's immediate family.~~
- ~~4. To provide care for certain members of the employee's family. (This includes taking a family member to the doctor, dentist, or other health professional.) This is to include spouse, parent, parent-in-law, grandparent, child, grandchild, or guardian relationship.~~

~~Verification. Three (3) or more days of consecutive absence due to illness or suspected abuse of sick leave in any amount must be verified by a statement from a medical provider before sick leave shall be granted. (See certification rules which apply to family/medical leave provided in section 7.08. The family/medical leave certification rules will apply even when the family/medical leave is run concurrently with paid leave, such as sick or annual leave).~~

~~• The appropriate supervisor may also require a statement from a medical provider or other acceptable proof of illness in other instances.~~

~~• Documentation: Sick leave shall be earned, calculated, and documented on a biweekly basis by the finance office as part of each employee's payroll record.~~

~~B. Regular full-time employees (and probationary employees). A regular full-time employee shall earn sick leave at the rate of four (4) hours per pay period for a total of thirteen (13) days per year based on hours paid.~~

~~C. Regular part-time employees (and probationary employees). A regular part-time employee shall earn sick leave on a pro-rated basis per pay period based on hours paid.~~

~~Examples:~~

30 hrs. worked	3 hours
20 hrs. worked	2 hours

~~D. Transfer of sick leave. An employee transferred from one program to another or one position to another transfers accrued sick leave. Sick leave is not transferable to another type of leave or to another person.~~

~~E. Minimum sick leave. Sick leave will be charged in 15-minute increments.~~

~~F. Advanced sick leave. Advanced sick leave of up to five days may be granted in the discretion of the appropriate supervisor and must be fully repaid before another request for advancement may be considered.~~

~~(Ord. No. 154, 5-3-2012)~~

~~Sec. 7.03. Bereavement leave.~~

~~At the discretion of the appropriate supervisor, an employee may be granted up to three days time off in pay status in case of death in the employee's immediate family as defined in Section 3.16 or for an employee who suffers the loss of a child as a result of a miscarriage or tubal pregnancy (medical documentation required). The supervisor shall also have discretion to grant funeral leave so that an employee may attend the funeral of a close family member not listed in Section 3.16. In extenuating circumstances the employee's supervisor may request on behalf of the employee that the Deputy Officer approve additional time off in pay status. Funeral leave is not earned or automatic and shall be taken only when approved.~~

~~(Ord. No. 154, 5-3-2012)~~

~~Sec. 7.04. Education leave.~~

~~Education leave is time off in pay status for employees to upgrade their knowledge and skills in relation to their jobs.~~

~~A. Authorization and limitations.~~

~~*Eligibility.* Regular full-time and regular part-time employees may be granted education leave with pay to participate in approved educational programs scheduled during the employee's tour of duty. Instruction must be related to the employee's job, e.g. refresher courses, technological training, business and professional enhancement.~~

~~*Procedure.* The employee shall submit a letter of request to the appropriate supervisor stating the content and schedule of the course. The appropriate supervisor shall submit the request to the Deputy Officer along with a recommendation for awarding or denying leave. This recommendation shall describe the course's relationship to the employee's job and the impact of the employee's absence on the department's services. Final approval shall be made by the Deputy Officer.~~

~~B. Maximum leave. Education leave may not exceed actual time for classroom instruction and a reasonable amount of time for travel between the institution and the employee's duty station. Education leave will not be given for time spent with a study group. No more than one class per semester or quarter may be taken in pay status. However, more than one class may be taken with approval but employees must take annual leave, LWOP, or be willing to adjust schedules to make up time for the additional classes.~~

~~C. Release of information. Employees granted education leave must sign releases authorizing the appropriate supervisor to:~~

- ~~• Randomly review course attendance with the course instructor; and~~
- ~~• Request grades, transcripts, or other verification of course completion.~~

~~(Ord. No. 154, 5-3-2012)~~

~~Sec. 7.05. Civil leave.~~

~~Civil leave is time off in pay status for employees to fulfill certain civic responsibilities. When compensation is awarded for civil duty, an employee may use annual leave or LWOP instead of civil leave (see Section 7.09).~~

~~A. Jury duty. An employee is entitled to civil leave with pay when required to perform jury duty. Leave is limited to the exact length of jury duty plus adequate travel time. Upon completion of jury duty, an employee must submit documentation from the court releasing the employee from jury duty. Failure to submit required documentation will result in employee being charged with~~

~~AWOL and subject to disciplinary action. Any compensation for jury duty does not have to be reported to the Tribe.~~

~~B. Court attendance.~~

- ~~• Official duties. No leave is required when an employee attends court as part of official EBCI duties.~~
- ~~• General duties. When an employee is subpoenaed or directed by proper authority to appear as a witness, the employee shall be granted civil leave.~~
- ~~• Non-related duties. When an employee is scheduled for court on any personal matter, the employee must take annual leave or LWOP.~~

~~(Ord. No. 154, 5-3-2012)~~

~~Sec. 7.06. Worker's compensation.~~

~~All EBCI employees are covered by worker's compensation following an accident on the job or contraction of an occupational disease. Worker's compensation is time off in pay status and will be run concurrently with family/medical leave provided under Section 7.08.~~

- ~~• Procedure. An employee should notify the appropriate supervisor immediately but at least within 24 hours of the accident or diagnosis. It is the responsibility of the department manager to forward the completed designated mandatory reports to the Tribal Risk Management in the Finance Department as well as the Employment Office and the Benefits Office. This should be done the same day the accident is reported to management. Employees who qualify for worker's compensation may be allowed to use annual leave or sick leave. In the event an employee takes annual or sick leave and is later compensated through a worker's compensation claim, the employee shall reimburse EBCI in an amount equal to the amount received through worker's compensation and the employee's leave record shall be adjusted accordingly. The Risk Management shall monitor and keep record of leave adjustments. This is to insure that the employee does not receive an amount that exceeds 100 percent of his/her normal pay. Also, employees who qualify for worker's compensation must maintain contact with their supervisor/manager at least once per week and after every doctor's appointment to provide the supervisor/manager with status reports. Workers Compensation training shall be mandatory on a yearly basis for all Tribal programs in the amount determined by the Safety Officer.~~

~~(Ord. No. 154, 5-3-2012)~~

~~Sec. 7.07. Military leave.~~

- ~~A. Military leave is a leave of absence without pay for military or reserve duty granted to full-time regular and part-time regular employees. Individuals who leave to perform military service shall, upon their deployment, if the absence is expected to last more than 31 days, be paid for any accumulated vacation leave. Supervisors must notify the Employment and Benefit Offices as soon as it is learned that an employee will be taking a military leave of absence. Military service means the performance of duty on a voluntary or involuntary basis in the Uniformed Services under competent authority, including active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, and the time necessary for a person to be absent from employment for an examination to determine fitness of the person to perform any of these duties. "Uniformed Services" means the U.S. Armed Services (including the Coast Guard), the Army National Guard and the Air National Guard (when engaged in active duty for training, inactive duty training, or full-time National Guard duty), and the commissioned corps of the Public Health Service. If you are called to active military duty or to Reserve or National Guard training, or if you volunteer for the same, you should notify your supervisor and submit copies of your military orders to him or her~~

~~as soon as is practicable. Although your position may be filled during your absence, you will be eligible for reinstatement after your military duty is completed (and any unused leave will be reinstated) if you have:~~

- ~~1. Notified your employer that you are going on military leave;~~
- ~~2. Left the military under honorable conditions; and~~
- ~~3. Returned to your job within the following time periods:~~
 - ~~(i) An employee whose period of military service was less than 31 days, or the leave was for the purpose of examination to determine fitness for duty, must report to the employer no later than the first full regularly scheduled work period on the first full calendar day after that period of service ends. This deadline may be extended to eight hours more if needed to travel safely from the place of service to the person's home or place of employment;~~
 - ~~(ii) An employee whose period of service lasted from 31 to 180 days must notify the program manager and the Employment and Benefits Offices within 14 days of the completion of service, or by the next first full calendar day if a prior submission was impossible or unreasonable through no fault of the employee.~~
 - ~~(iii) An employee whose period of service was greater than 180 days must notify the program manager and the HR Department within 90 days of completion of uniformed service.~~
 - ~~(iv) The preceding deadlines may be extended for employees who are hospitalized or who are convalescing from medical conditions when their service concluded. The employee loses the right to reemployment if the recovery period exceeds two years.~~

~~The EBCI may deny reemployment to any employee whose position was abolished or was eliminated as part of a reduction in force. Also, when more than one employee is entitled to reinstatement to the same job, the employee who first went on leave has priority. Persons who have filled open positions during an employee's military leave of absence will be considered a "regular employee" for purposes of benefits, but will be terminated upon the returning employee's reinstatement and will have no appeal rights under Article XIV when replaced by the returning employee, but will be eligible for reinstatement pursuant to Section 5.07.~~

~~B. Continuation of coverage — Health plan. Employees on military leave shall have the right to elect continuation of coverage. The maximum length of the continuation of coverage is:~~

- ~~1. The lesser of 18 months, beginning on the day that the Uniformed Services begins; or~~
- ~~2. A period beginning on the day that the Uniformed Service leave commences and ending on the day after the employee fails to return to or reapply for employment within the time allowed by applicable law.~~

~~Premium payments for coverage are the same as COBRA'S 102 percent, except that, whenever the military leave is less than 31 days, the employee is not required to pay more than he or she would have been required to pay if the employee had not been on leave. An employee who is qualified for reemployment under the provisions of the Uniformed Services Employment and Re-employment Rights Act (USERRA) will be eligible for reinstatement of coverage under the Plan upon re-employment. Upon re-employment and reinstatement of coverage no new exclusion or waiting period will be imposed in connection with the reinstatement of such coverage if an exclusion or waiting period would normally have been imposed. However, an exclusion or waiting period may be imposed where it has been determined by the Secretary of Veteran's Affairs that an illness or injury has been incurred in, or aggravated during, performance of service in the uniformed services.~~

~~C. Short Term Military Leave. Employees who are required to undertake short periods of active duty training (not to exceed 15 calendar days per year) shall be granted time off.~~

- ~~▪ Difference pay. Short term military leave is with difference pay. If the employee's military pay is equal to or greater than his regular salary rate, the employee will be granted leave without pay.~~

~~• Procedures.~~

- ~~• Eligibility. Regular full and part-time employees, including probationary employees, who are members of the Army National Guard of the United States, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, or the Coast Guard Reserve shall be entitled to military leave for mandatory annual active duty training (summer encampment), maneuvers, or training school.~~
- ~~• Short term Military leave shall not be granted when participation is voluntary or not a fulfillment of a reserve obligation. Weekly drill instruction or target practice, special drill instruction, duties resulting from corrective action, or other special non-recurring activities shall not be acceptable.~~
 - ~~• Exception: Difference pay may be granted, in some circumstances, at the discretion of the Executive Committee, when the employee is performing voluntary emergency or special duty assignments.~~
 - ~~• If the employee is not eligible for short term military leave, annual leave or leave without pay will be charged.~~
- ~~• Maximum short term military leave. A maximum of 15 calendar days in one calendar year may be charged to military leave.~~
- ~~• Emergency or special duty assignments. Members of the Army or Air National Guard ordered to active duty under the authority of the Commander in Chief, the Governor, or members receiving special assignments in connection with summer encampment, when ordered by the Adjutant General, or members of the Civil Air Patrol performing emergency assignments for the state, shall be entitled to military leave with difference pay. In such cases, the maximum amount of time military leave may be given shall be ten working days per year. Short term military leave shall be granted only for those days the employee is ordered to be on duty.~~
- ~~• Administrative responsibility. It shall be the responsibility of the appropriate supervisor to determine that the employee has met all the requirements set forth above and to require the employee to submit a copy of orders to report for duty.~~

(Ord. No. 154, 5-3-2012)

~~Sec. 7.08. Tribal Family and Medical Leave (TFML).~~

~~In general, The TFML offers up to 12 weeks of leave in any rolling calendar year for the following reasons:~~

- ~~• Birth, adoption, or foster care of a child;~~
- ~~• Care for a child, spouse or parent with a serious health condition; or~~
- ~~• Care for the employee's own serious health condition.~~

~~EBCI also allows care of the employee's spouse, child, parent, or next of kin (nearest blood relative) who has incurred an injury or illness in the line of duty while on active duty in the Armed Forces, provided that such injury or illness may render the spouse, child, parent, or next of kin medically unfit to perform duties of his/her office, grade, rank or rating. An employee qualifying under this section is entitled to leave for up to 26 weeks during a single 12-month period.~~

~~TFML is time off in pay status with or without pay, depending upon whether the employee has exhausted all other accrued leave.~~

A. ~~Eligibility.~~ Regular full-time and part-time employees who have been employed by EBCI for 12 months and who have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave are eligible for TFML leave.

B. ~~Procedure and documentation.~~ Employees must provide their supervisors with thirty (30) calendar days notice for predictable situations, in other situations where advanced notice cannot be given the employee must first contact their supervisor then the Benefits Office, of their need to apply for TFML. An employee should consult with the Benefits Office regarding possible qualification for short-term disability along with TFML. Worker's Compensation also runs concurrently with TFML as referenced in Section 7.06.

The appropriate supervisor must authorize and document in writing the leave agreement between the EBCI and the employee. Both parties must sign this agreement. The supervisor must maintain a copy(s) of the agreement, provide a copy(s) to the employee and provide a copy(s) of the agreement to the Benefits Office. Both the supervisor and employee shall be responsible for notifying the Benefits Office when the employee returns to work.

The agreement shall include documentation, (documents must be originals, not faxed or emailed copies, with all information clearly filled out, including contact information for physicians, etc) of at minimum, the following information:

- ~~Doctor's certification of the "serious health condition;"~~
- ~~Appropriate medical facts;~~
- ~~Date of onset;~~
- ~~Probable duration of leave and/or schedule for reduced or intermittent leave;~~
- ~~Planned treatment;~~
- ~~Need for the employee to provide care if leave is to care for another;~~
- ~~Monitoring requirements;~~
- ~~Reason for leave;~~
- ~~Types of leave and benefits used to date, e.g., sick leave, annual leave, worker's compensation;~~
- ~~Exact dates of projected TFML leave;~~
- ~~Employee address and phone number during leave by date;~~
- ~~Health care provider name, address, phone number; and~~
- ~~Consequences for not returning to work by the specified date.~~

If applicable, the following information shall also be documented:

- ~~Procedures for collection of contributions to benefit plans; and~~
- ~~Calendar for intermittent or reduced schedule leave.~~

Additional opinions: EBCI may require additional medical opinions at EBCI expense.

C. ~~Restrictions.~~

- ~~Use requirements.~~ Accrued sick leave and annual leave must run concurrently with any TFML leave granted. Short-term disability can be prorated and used along with sick and annual leave.
- ~~Spousal leave.~~ Spouses are each entitled to 12 weeks of leave if the leave is required by the illness of one spouse or child. Leave may be restricted to a combined total of 12 weeks, if the leave is due to birth, adoption of a child, or care of a sick parent.

- ~~• Employee limitations. The employee is prohibited from collecting unemployment insurance while on leave.~~

~~D. Training. The Benefits Office shall provide training and assistance to any employee, manager or supervisor with relevant information about the TFML.~~

(Ord. No. 154, 5-3-2012)

~~Sec. 7.09. Leave without pay (LWOP).~~

~~LWOP is time off in pay status without pay and must be approved in advance by the appropriate supervisor. Any LWOP granted over 40 hours must be reported to the Benefits Office by the supervisor. All other types of leave, including leave granted under the TFML, must be exhausted prior to approval of LWOP. Exception: When the employee receives compensation from an outside source for services rendered during tour of duty, (see Section 7.05). LWOP for exempt employees must be granted in eight-hour increments while LWOP for non-exempt employees may be granted for less than eight hours and calculated in 15 minute increments.~~

~~Note: any leave or any combination of leave taken in excess of 12 weeks in any calendar year may affect eligibility for insurance benefits.~~

~~Managers must review each request on a case by case basis to determine whether business will allow the employee's position to be vacant for the amount of requested time for the leave. LWOP may be granted for issues such as medical situations where the employee has not been with EBCI for a full year.~~

~~Employees with at least six months continuous employment may request and be granted, at the Manager and Deputy discretion, up to 30 days leave without pay to attend to personal matters. At the end of the 30 days leave, an employee may request an extension. The manager and Deputy, again based on business needs, may approve the extension. Extensions may be granted for additional 30-day increments up to 90 days leave in a 12-month period. The initial leave request must have an anticipated return date to be considered. Extension requests must be made seven days prior to the anticipated return date.~~

~~Employees on LWOP for 30 days or more will not be guaranteed their same position, shift or station.~~

(Ord. No. 154, 5-3-2012)

~~Sec. 7.10. Administrative leave.~~

~~Administrative leave is time off in pay status granted to employees on duty at the discretion of the Principal Chief. Employees on annual or sick leave are not allowed to claim administrative leave. (Note, in the event administrative leave is granted to individuals working alternative shifts such as night shift, the Principal Chief shall advise affected managers whether or not administrative leave will be granted to those individuals working shifts outside the usual 7:45 a.m.—4:30 p.m. tour of duty.)~~

~~In the event the Principal Chief delays the opening of Tribal offices due to inclement weather and declares Tribal employees to be on a Schedule B, these employees shall report to work at 9:15 a.m. An employee who does not report at 9:15 a.m. shall use annual leave for the absence from work.~~

~~Nonexempt employees who are required by management to work during time periods when other employees have been granted administrative leave shall be paid time and one-half for hours worked during the administrative leave period.~~

~~Examples of administrative leave may include but are not limited to:~~

- ~~• Power outages;~~
- ~~• Environmental emergencies; and~~
- ~~• Administrative holidays.~~

(Ord. No. 154, 5-3-2012)

ARTICLE 8. ~~CODE OF ETHICAL CONDUCT~~

~~Sec. 8.00. Purpose.~~

~~Employment with the Eastern Band of Cherokee Indians carries with it a special obligation of trust that imposes responsibility to conserve and protect public resources, funds and materials. All EBCI employees are expected to conduct themselves with integrity, impartiality, and professional conduct that will reflect favorably upon themselves and the EBCI. In addition to this section, EBCI employees shall comply with all ethical standards adopted by the Tribal Council or otherwise applicable to the EBCI.~~

(Ord. No. 154, 5-3-2012)

~~Sec. 8.01. Confidentiality.~~

~~Employees shall not disclose confidential information obtained by reason of their employment with EBCI, nor use such information for their economic benefit or the economic benefit of any other person. Some departments may require an additional confidentiality agreement to be signed by an employee as a condition of employment.~~

~~See section 2.05.~~

(Ord. No. 154, 5-3-2012)

~~Sec. 8.02. Subordination to authority.~~

~~Employees shall adhere to established policy. Suggestions and ideas for policy change may be made by employees at any time. This is normally done with their supervisor but can be to any member of EBCI management. Periodic policy reviews will also be held during which employee input will be invited and considered.~~

(Ord. No. 154, 5-3-2012)

~~Sec. 8.03. Conflicts of interest.~~

~~An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in personal gain for the employee or for an immediate family member.~~

~~Personal gain is defined as occurring when an employee or a member of the employee's immediate family receives any kickback, bribe, gift, or special consideration as a result of, or in order to influence, any EBCI transaction.~~

~~When an employee is approached by others to use influence, or believes that personal relationships, interests, or business will bias the employee's influence or decisions on EBCI purchases, transactions, leasing arrangements, or other transactions, the employee is required to disclose this information to the appropriate supervisor immediately.~~

~~A Tribal employee shall not participate in the selection or award of employment, a contract or other thing of value if a conflict of interest, real or perceived, would be involved. Such a conflict would arise when a Tribal employee, a member of his/her immediate family or a close business associate would directly benefit from the award.~~

~~This does not preclude a Tribal employee from approving a contract in which a conflict may appear to be present provided that the Tribal employee was not involved in the selection of the contractor, the~~

contract was sought and awarded in an arms-length negotiation in the normal course of business (by an authorized employee without a real or perceived conflict) or it was the result of competitive bidding or competitive price quotes, and it was awarded pursuant to the Tribe's Fiscal Management Policies. See also Chapter 117-45, 46, 47 of the Cherokee Code.

(Ord. No. 154, 5-3-2012)

~~Sec. 8.04. Outside work or interests.~~

~~A. *Boards, task forces or committees.* Employees must obtain approval from the appropriate supervisor and the appropriate Deputy Officer prior representing the EBCI at any function or speaking engagement, and prior to serving on any board, task force, or committee, (see section 7.05(B) regarding leave/compensation from outside sources).~~

~~Prior to giving approval the appropriate supervisor and the employee will assess the following questions;~~

~~A. Is it during work hours, how often and how long?~~

~~B. Is it related in such a way as to cause conflict of interest?~~

~~C. Is the employee acting or could be assumed to be acting in an official capacity or as a representative of the Tribe or EBCI?~~

~~The EBCI encourages employees to become involved in worthwhile volunteer activities, however, such involvement should be cleared through the appropriate supervisor if the activities occur during the work day or have the potential for interfering with the employee's work duties.~~

~~B. *Outside employment.* Employees may hold outside jobs as long as they meet the performance standards of their EBCI position, place priority on EBCI responsibilities, and are able to meet EBCI's scheduling demands. Such employment must avoid the appearance that the employee is acting on behalf of the EBCI. Notice of outside employment shall be given to the appropriate supervisor.~~

~~The employee's outside employment shall not reflect discredit on the EBCI or constitute a conflict of interest.~~

(Ord. No. 154, 5-3-2012)

~~ARTICLE 9. DRUG AND ALCOHOL POLICY~~

~~Sec. 9.00. Purpose.~~

~~The purpose of this policy is to protect EBCI employees and the public from the risks posed by the abuse of alcohol and drugs. It also serves as a statement of EBCI intolerance for substance abuse for the EBCI community and work force. Eradication of the problems associated with substance abuse will begin with EBCI employees. This policy is separate from the Corrective Action policy of the EBCI and sections 13 and 14 of the personnel policy do not apply.~~

~~This policy shall comply with the Drug Free Workplace Act of 1988, 41 U.S.C. 701, et seq. In situations where any contract or grant requires stricter policies, EBCI will comply with such policies. EBCI accepts set standards for the collecting and testing of specimens and the reporting of certain drug-related offenses.~~

~~The following summary is designed to describe how EBCI intends to approach situations involving drug or alcohol use or abuse. However, drug or alcohol problems may differ from case to case, and every situation will be assessed based on the specific circumstances presented. This summary does not restrict EBCI's right to address any situation as it deems appropriate, nor does it limit or affect EBCI's work rules and job requirements.~~

(Ord. No. 154, 5-3-2012)

~~Sec. 9.01. Goals.~~

~~The specific goals of the EBCI Drug and Alcohol Policy are to:~~

- ~~• Educate employees about the dangers and problems associated with substance abuse;~~
- ~~• Facilitate the prevention of substance abuse;~~
- ~~• Identify any employee who may be engaging in substance abuse and identify the substance(s);~~
- ~~• Provide opportunities for counseling and treatment or any employee abusing drugs and/or alcohol;~~
- ~~• Protect the public and coworkers from those employees abusing drugs and/or alcohol;~~
- ~~• Develop a drug free workplace and community;~~
- ~~• Make provision for employees undergoing treatment to continue to work or to return to work as soon as possible consistent with their prescribed treatment program.~~

(Ord. No. 154, 5-3-2012)

~~Sec. 9.02. Applicability.~~

~~The policy applies to all current and future EBCI employees. This policy applies to off-site lunch breaks, break periods, or other times after which an employee is scheduled to return to work. Visitors, vendors, and contractors are governed by this policy while on EBCI premises and will not be allowed to conduct EBCI business if found to be in violation of this policy.~~

(Ord. No. 154, 5-3-2012)

~~Sec. 9.03. Prohibited conduct.~~

- ~~A. *Manufacture, trafficking, possession, and use of prohibited substances.* Employees are prohibited from engaging in the manufacture, distribution, dispensing, possession, or use of prohibited substances on EBCI property, in EBCI vehicles, or while on EBCI business. Additionally, law enforcement shall be notified, as appropriate, when criminal activity is suspected.~~
- ~~B. *Failing to submit to testing.* Drug and alcohol testing is a condition of employment. Applicants for Tribal employment who refuse to submit to drug testing are not eligible for employment. Tribal employees who refuse to submit to drug and alcohol tests authorized in this policy shall be terminated. Refusal can include an inability to provide a sufficient specimen or sample without a valid medical explanation, as well as verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.~~
- ~~C. *Providing false information.* Any employee who is suspected of providing false information in connection with a test, or who is suspected of falsifying test results through tampering, contamination, alteration, or substitution will be required to undergo an observed collection. Verification that the employee has provided false information or has falsified test results will result in the employee's termination.~~

(Ord. No. 154, 5-3-2012)

~~Sec. 9.04. Definitions.~~

A. ~~Positive test~~ means a drug test that indicates that the person has a quantifiable presence of a prohibited substance in the body or an alcohol test that indicates any amount of alcohol in at least two breath tests performed within 15-20 minutes of each other.

B. ~~Prohibited substance~~ means:

- ~~Any alcoholic beverage.~~
- ~~Any prescription drug not being used for legal purposes.~~
- ~~All drugs classified as controlled substances by the North Carolina Controlled Substances Act, G.S. 90-86 et seq., and controlled substances in Schedule I through V of the Controlled Substances Act, 21 U.S.C. 812.~~

C. ~~Under the influence~~ means the employee is affected in any detectable manner by the presence of alcohol or prohibited substances in his or her body, or has tested positive for alcohol or a prohibited substance. Symptoms include, but are not limited to, obvious impairment of physical or mental ability, such as slurred speech, difficulty in maintaining balance and/or odor of alcohol on the breath.

(Ord. No. 154, 5-3-2012)

~~Sec. 9.05. Drug and alcohol testing.~~

~~Drug and alcohol testing is a condition of employment. All applicants and employees must submit to drug and alcohol testing.~~

A. ~~Applicants.~~ All applicants will be provided a summary of the drug testing policy. Applicants who have received conditional offers of employment with the Tribe must submit to testing for evidence of improper drug use and/or, where indicated, to test for the presence of alcohol. If the tests are positive, the applicant will be refused employment and may not reapply for at least 60 days.

B. ~~Employees.~~ All employees are subject to random, unannounced testing using a valid method that ensures that each employee will have an equal chance of being selected each time random testing's are made. Random testing will be conducted throughout the year. The Employment Office shall deliver a list of the names of the employees to be tested to the appropriate Deputy or his/her designee on the morning of the random testing. Once the list is received and acknowledged by signature, it shall be the Deputy's or his/her designee responsibility to notify the employees to report for testing. If a random list of names to be tested is not received and acknowledged by signature of the Deputy or his/her designee, a failure of employees to report for random testing shall not be a violation of the Drug Policy.

C. ~~Safety sensitive positions.~~ All employees, whose positions require them to perform safety sensitive duties, and/or require a commercial driver's license, may be subject to random drug testing at a higher incidence than other employees per the regulations of the Federal Transit Authority (FTA) and per the regulations of the U.S. Department of Transportation (DOT) 49 CFR Part 40. In addition, penalties for positive drug tests may be more severe per the Tribe's Transit Services Drug and Alcohol Policy, effective January 1, 1999.

D. ~~After an accident.~~ A drug and alcohol test shall be given to any employee who contributes to a work related injury that result in a reportable incident which:

- ~~Requires professional medical treatment for the employee;~~
- ~~Requires professional medical treatment for another person; and/or~~
- ~~Causes damage to property exceeding \$500.00.~~

~~Failure of the employee to submit to the testing upon the request of the employer (post accident) will result in termination.~~

~~The Tribe follows North Carolina state law governing worker's compensation benefits. Pursuant to that law, worker's compensation benefits shall be denied to employees who are injured on the job and who test positive for prohibited substances in post-accident testing if the employee's impairment was the proximate cause of the injury.~~

- ~~E. *Upon reasonable suspicion.* Reasonable suspicion referrals for testing will be made on the basis of documented objective facts and circumstances. A written reasonable suspicion referral will be made by the appropriate supervisor to the Division Deputy Officer or his/her assigned designee, who will then notify the Employment Office. All supervisors will be trained to detect the signs and symptoms of drug and alcohol use. The referral must include the observations and/or evidence leading to the conclusion of reasonable suspicion of possible substance abuse. A written record of the reasonable suspicion must be prepared and signed by the supervisor within 24 hours of the observed behavior and/or evidence leading to the reasonable suspicion and must be received by the appropriate Deputy Officer before results of the drug test are known. Reasonable suspicion testing must be completed by the end of the workday that the possible violation was observed.~~
- ~~F. *Reasonable suspicion searches.* As part of the Tribe's ability to carry out the intent of this policy, the Tribe may search an employee's locker, desk, or other Tribal property when there is reasonable suspicion. The Tribe will ask law enforcement to conduct searches in the presence of witnesses and to document their findings.~~
- ~~G. *Employees on leave.* Employees on authorized leave or who are off duty when the random drug testing is performed will be required to report to the Employment Office immediately upon return to work to receive instructions on where to report for the drug test. If an employee's schedule falls outside of the Employment Office's regular hours the employee will be required to report to the Employment Office during regular hours immediately after notification of the random drug test. Failure to submit to testing on the day that the employee returns to work or during the regular hours immediately after notification will result in that employee's immediate termination.~~
- ~~H. *Confidentiality.* The Tribe and its contracting agents shall use reasonable precaution to ensure and maintain accuracy and confidentiality of the test results. A record of the chain of custody of the specimen will be documented in order to protect the identity of the employee and the integrity of the sample throughout the collection and testing process. Only persons authorized by the Executive Committee shall view the results of testing. The Employment Office shall ensure appropriate and applicable storage of these records.~~

(Ord. No. 154, 5-3-2012)

~~Sec. 9.06. Under the influence at work.~~

~~If an employee reports to work displaying symptoms that they are under the influence of drugs or alcohol, and there's reasonable cause to believe they are under the influence of drugs or alcohol the following will occur:~~

- ~~• The supervisor will observe the employee's behavior.~~
- ~~• Upon the supervisor's conclusion that the employee is under the influence of an unknown substance, the Cherokee Police Department or the contracted drug testing administrator will be summoned to administer two Breathalyzer tests within 15-20 minutes of each other.~~
- ~~• If the two Breathalyzer tests are positive tests, the employee will be suspended without pay pending further investigation. The documentation will be reviewed by the Human Resources Office. If there are no circumstances or evidence to mitigate the employee's behavior or positive test, the employee will be terminated.~~

- ~~If the alcohol Breathalyzer tests are negative tests, the employee may be suspended with pay for the day and may be required to submit to a drug test if the supervisor suspects a drug test is necessary. Suspension shall continue pending review of the drug test results.~~
- ~~If drug use is suspected, the supervisor will contact the Employment Office at which time arrangements will be made for a drug screen.~~

~~(Ord. No. 154, 5-3-2012)~~

~~Sec. 9.08. Legal medication.~~

~~Legal drugs are over the counter medications and drugs for which the individual has a medical prescription to treat specific medical conditions(s). The appropriate use of legal drugs is permitted. However, the use of any substance which carries a warning label indicating that mental functioning, motor skills, or judgment might be adversely affected must be reported to the appropriate supervisor before reporting to work under such medication. This is so that any resulting impairment will not be considered a violation of this policy and result in termination. However, the Tribe may prohibit an employee from working if taking such medication might create a safety risk in the workplace. Information obtained from such reports should be treated as a confidential medical report and should not be placed in the employee's personnel file. Steps will be taken to guarantee the security of this information. Supervisors may request that medical advice be sought by the employee before performing work-related duties.~~

~~(Ord. No. 154, 5-3-2012)~~

~~Sec. 9.09. Notice of criminal drug/alcohol violation.~~

~~Employees must notify the appropriate supervisor of any criminal drug arrest immediately or as soon as reasonably possible after such charge but no later than 24 hours after such charge; this requirement also applies to any charge of laws governing the use of alcohol including, but not limited to, driving under the influence. An employee's failure to notify their supervisor of a violation within 24 hours shall result in their immediate termination.~~

~~(Ord. No. 154, 5-3-2012)~~

~~Sec. 9.10. Education and training.~~

~~The Employment Office shall ensure that all EBCI employees will receive at least 60 minutes annually of training on the consequences of prohibited drug/alcohol use. Managers and supervisors will receive an additional 60 minutes of training on the signs and symptoms of alcohol/drug misuse. Training shall be documented and updated on an annual basis. The Employment Office will be responsible for monitoring this policy.~~

~~(Ord. No. 154, 5-3-2012)~~

~~Sec. 9.11. Voluntary admission of drug/alcohol use.~~

~~A. Voluntary admission. Any employee, at least three working days prior to the day of random testing, who voluntarily, and without reasonable suspicion of a supervisor, identifies themselves as having a problem with alcohol or drug abuse, shall be referred to the Employee Assistance Program. If the employee is unable to perform work duties, the employee may use accrued annual leave or be placed on leave without pay status until the employee can return to work. The employee shall not be subjected to corrective action for identifying themselves as having a problem with alcohol or drug abuse unless the employee's alcohol or drug abuse constitutes a direct threat to either property or~~