

# **Human Resources Personnel Policy Manual**

**For the**

**Lummi Indian Business  
Council**



## **Introduction**

This Personnel Policy Manual is an outline of the basic personnel policies and practices of the Lummi Tribal Government. It contains general statements of organizational policy and should not be read as including the fine details of each policy unless it is specifically addressed in the policy manual.

The Human Resources Director is responsible for custody, maintenance, administrative revisions and distribution of copies of the Personnel Policy Manual. Each Executive Director will be issued a copy of this manual and may request from the Human Resources Department a sufficient number of additional copies for distribution to each of their employees in their departments. It will also be available on the LIBC Intranet system.

The manuals are Tribal Government property and are assigned to the job position and not to the individual. Upon separation of employment, each manual shall be returned to the Executive Directors of their department.

Should an employee approach their supervisor with a question concerning a policy contained in the manual, the supervisor is encouraged to consult the written policy and attempt to answer any questions concerning the policy. Particular matters involving the interpretation of the policy shall be referred to the Human Resources Director.

As used in the manual:

- ◆ The words "shall" or "will" are to be construed as mandatory and the word "may" as permissive.
- ◆ Lummi Indian Business Council shall mean the body of elected officials empowered by the tribal General Council to oversee the activities of the LIBC.
- ◆ LIBC shall mean the Tribal Governmental offices, enterprises, and the people working for those activities.
- ◆ "General Manager" (GM) means the individual responsible for the overall administration of all LIBC organizational offices and enterprises. The GM is hired by and reports to the elected Lummi Indian Business Council.
- ◆ "Executive Director" means the individual with overall responsibility for a Division or multiple departments and is hired by and reports to the GM (example: Planning Director, Natural Resources Director, etc.).
- ◆ "Director" means an individual responsible for a department(s).
- ◆ "Supervisor" means an individual with the authority to hire, assign, terminate, direct, and review the work of one or more subordinates.

## **Applicability**

The Human Resources Personnel Policies set forth in this manual apply to all employees of the LIBC and its organizations/entities.

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## **101 Employee Relations/Responsibilities**

Effective Date: 08/01/00

LIBC believes that the compensation package offered to its employees are competitive with those offered by other employers in this area and in this industry. If employees have concerns about work conditions or compensation, they are strongly encouraged to voice these concerns openly and directly to their supervisors. Our experience has shown that when employees deal openly and directly with supervisors, the work environment can be excellent, communications can be clear, and attitudes can be positive. LIBC amply demonstrates its commitment to employees by responding effectively to employee concerns.

### **Employee Responsibilities:**

All employees are required to report any suspected criminal behavior by another employee during working hours to the Human Resources Department.

All employees are responsible for reporting any allegations (whether told to them or witness to an incident) of harassment to their immediate supervisor or the Human Resources Director.

All employees' names will be eligible to be randomly selected to serve on the "Review Board" for complaint resolutions [See Section 505]

All employees will follow the "Chain of Command" established in their respective Departments.

Employees shall make their best effort to perform their jobs in the best interest of LIBC and the Lummi Nation.

Employees shall from time to time be assigned "Other Duties" and will be expected to carry out those duties.

Employees shall make conscientious efforts to improve performance when their supervisor has identified performance deficiencies.

No employee shall speak for the Lummi Nation to any mass media organization on any matter concerning the nation without first obtaining approval from the Lummi Indian Business Council Secretary.

Employees are encouraged to exercise their political rights as citizens, vote as they choose, support candidates of their choice, and express political opinions. However, political activities must take place outside of working hours and away from the tribal government offices or any other organization/entity operated by the Lummi Nation.

Employees are responsible for the proper maintenance and upkeep of any tribal equipment that is assigned to them for their position.

Employees who are injured on/off the job and who are released by their doctor for light duty will be required to notify their supervisor and return to work immediately for light duty. Employees on light duty may have to perform duties in another department and return to their position when their doctor approves of full duty responsibility and provides written notice.

## **102 Conflicts of Interest**

Effective Date: 08/01/00

Employees have an obligation to conduct business within the guidelines that prohibit actual or potential conflicts of interest. This policy establishes only the framework within which LIBC wishes the business to operate. The purpose of these guidelines is to provide general direction so that employee can seek further clarification on issues related to the subject of acceptable standards of operation. Contact your Executive Director for more information or questions about 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 a personal gain for that employee or for a relative as a result of LIBC's business dealings. For the purpose of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage.

No "presumption of guilt" is created by the mere existence of a relationship with outside firms. However, if employees have any influence on transactions involving purchases, contracts, or leases, it is imperative that they disclose to their immediate supervisor prior to the transaction as soon as possible the existence of any actual or potential conflict of interest so that safeguards can be established to protect all parties. Failure to report possible conflict issues to the employee's supervisor will result in the appropriate disciplinary action up to and including termination.

Transactions with outside firms must be conducted within a framework established and maintained by the executive level of LIBC Business. Dealings with outside firms should not result in unusual gains for those outside firms, employees or both. Unusual gain refers to bribes, product bonuses, special fringe benefits, unusual price breaks, and other windfalls designed to ultimately benefit the outside firm, the employee, or both. Promotional plans that could be interpreted to involve unusual gain require specific executive-level approval

Personal gain may result not only in cases where an employee or relative has a significant ownership in a firm with which LIBC does business, but also when an employee or relative receives any kickback, bribe, substantial gift, or special consideration as a result of any transaction or business dealing involving LIBC.

## **103 Outside Employment**

Effective Date: 07/26/2011

Employees may hold outside jobs subject to departmental policies, as long as they meet the performance standards of their job with LIBC. All employees will be judged by the same performance standards and will be subject to LIBC's scheduling demands, regardless of any existing outside work requirements. Employees who hold outside jobs must submit in writing the general duties of that position to their immediate supervisor to determine if a conflict of interest exists. A copy of the agreement must be submitted to the employees personnel file.

If the employee's immediate supervisor determines that an employee's outside work interferes with performance or the ability to meet the requirements of LIBC as they are modified from time to time, the employee may be required to terminate the outside employment if he or she wishes to remain with LIBC. If the outside employment continues to be an issue, the employee may be subject to corrective action up to and including termination of employment with LIBC.

Outside employment that constitutes a conflict of interest is prohibited. Employees may not receive any income or material gain from individuals outside LIBC for material produced or services rendered while performing their jobs for LIBC.



## **104 Non-Disclosure**

Effective Date: 08/01/00

The protection of confidential business information and trade secrets is vital to the interest and the success of LIBC. Such confidential information includes, but is not limited to, the following examples:

- \* Attorney/client information
- \* Compensation data
- \* Computer programs and codes
- \* Customer lists
- \* Confidential employee data
- \* Financial information
- \* Labor relations strategies
- \* Marketing strategies
- \* Medical information
- \* New materials research
- \* Pending projects and proposals
- \* Proprietary production processes
- \* Research and development strategies
- \* Scientific data
- \* Technological data
- \* Tribal business strategies

All employees and Commission members are required to sign a non-disclosure agreement as a condition of employment. Employees who improperly use or disclose trade secrets or confidential business information will be subject to disciplinary action, up to and including termination of employment and legal action, even if they do not actually benefit from the disclosed information.

## **105 Personal Appearance/ Dress Attire**

Effective Date: 06/21/2011

Dress, grooming, and personal cleanliness standards contribute to the morale of all employees and affect the business image LIBC presents to customers, clients and visitors.

During business hours, employees are expected to present a clean and neat appearance and to dress according to the requirements of their position. Employees who appear for work inappropriately dressed will be sent home and directed to return to work in proper attire, including uniform, gear and equipment if required. Under such circumstances, employees will not be paid for this time and will not be allowed to use their accumulated leave time. Continued violations of this policy will lead to corrective action up to an including termination of employment.

Professional attire:

Clothing length should not exceed three inches above your knee cap, unless it is required for your uniform. In certain positions, employees with visible tattoos or piercings may be asked to cover them. Revealing or ripped clothing are examples of inappropriate professional attire.

Consult your supervisor or department Director if you have questions as to what constitutes appropriate attire.

## **201 Employment Categories**

Effective Date: 12/1/2015

It is the intent of LIBC to clarify the definitions of employment categories so employees understand their employment status. For benefit eligibility refer to each benefit policy located in the 300 section of this manual.

### **STANDARD CATEGORIES**

REGULAR FULL-TIME employees are those who have completed their Orientation period and who are regularly scheduled to work over 30 hours per week. Equal to or more than .75 Full time employee (FTE).

REGULAR PART-TIME employees are those who have completed their initial orientation period and who are regularly scheduled to work 21-29 hours per week. More than .50 FTE.

PART-TIME employees are those who have completed their initial orientation period and who are regularly scheduled to work up to 20 hours per week. Equal to or less than .50 FTE. They are eligible for some LIBC benefits, subject to the terms, conditions, and limitations of each benefit policy.

SPECIAL PROJECTS employees are those who are hired to assist in the completion of a specific project. Employment assignments in this category are of limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. They may be eligible for some LIBC benefits, subject to the terms, conditions, and limitations of each benefit policy. If it is a grant funded position, the position will be subject to the terms of the grant.

### **ORIENTATION CATEGORIES (for orientation policy see Section 206)**

INITIAL ORIENTATION employees are those whose performance is being evaluated to determine whether further employment in a specific position is appropriate. All regular full-time, regular part-time and part-time employees must complete an initial orientation period. The initial orientation period shall be a minimum of ninety (90) calendar days.

EXTENDED ORIENTATION employees are those who the supervisor determines that the initial orientation period does not allow sufficient time to thoroughly evaluate the employee's performance, the extended orientation period may be extended for up to an additional ninety (90) calendar days.

SECONDARY ORIENTATION employees who transfer to another department/entity (Northwest Indian College, Lummi Commercial Company, Lummi Housing, Lummi Water and Sewer) within LIBC will be placed on a ninety (90) calendar day secondary orientation period.

## **CONTRACT CATEGORIES**

EMPLOYMENT CONTRACT employees are those who are hired by LIBC outside of the normal Human Resources process and are only for upper-level management and/or professional positions. Employment beyond any initially stated period will require a new signed employment contract. All employees whom enter into an employment contract will be subject to the policies within this manual, unless otherwise indicated in the employment contract. The employment contracts must be approved as to form by the Office of the Reservation Attorney and approved by the HR Director and LIBC. Employment contracts must comply with all LIBC contracting policies and procedures.

EDUCATION CONTRACT employees are those who are hired by LIBC to work for the Education department for a specified period of time. Education contracts are generally two year contract terms with roll over conditions pending a positive employee evaluation. Salary adjustments within the 2 year timeframe of the education contract, will require an addendum and not a new contract. All employees whom enter into an education contract will be subject to the policies within this manual, unless otherwise indicated in the education contract. They are eligible for LIBC's benefits package, subject to the terms, conditions, and limitations of each benefit program and their education contract. If an employee continues their employment in successive academic years, they shall not be subject to an orientation period and shall be eligible to receive all LIBC benefits. Returning education employees should contact the Human Resources Department for the specific calendar dates that each LIBC benefit will begin. The employment contracts must be reviewed and approved as to form by the Office of the Reservation Attorney and approved by the Lummi Education Board.

## **ELECTED/APPOINTED CATEGORIES**

ELECTED OFFICIALS - LIBC elected officials are selected by LIBC to serve in paid positions. They are subject to the policies in this Human Resources Personnel Policy Manual except to the extent that policies which conflict with their roles and duties as elected officials shall not apply to them.

COUNCIL APPOINTMENT/STAFF (at-will) employees are those who are hired by LIBC Officers to assist them in fulfilling their elected position or Council initiatives, per LIBC Resolution 2010-109 (until rescinded or replaced). Per the resolution, at-will positions are restricted from supervising employees. These employees shall have a job description and are subject to the policies within this Human Resources Personnel Policy Manual excluding the Grievance Policy and any Challenge Policy adopted in the future.

## **COMMITTEES, BOARDS & COMMISSIONS (CBCs)**

CBC employees are those whom are elected or appointed to serve the community. If they are not re-elected or are removed from their position/seat their employment relationship will immediately end. They are not eligible for any LIBC benefit programs but are subject to the policies in this Human Resources Personnel Policy Manual.

## **OTHER CATEGORIES**

TEMPORARY employees are those who are hired as interim replacements, to supplement the workforce, or to assist in the completion of a specific short term project. Employment assignments in this category are of limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. Temporary status is not to exceed ninety (90) calendar days. Any employee who will be working for more than ninety (90) calendar days must be categorized as a "Special Project" or another employee category in this Section.

ON-CALL employees are those who have established an employment relationship with LIBC but who are assigned to work on an intermittent and/or unpredictable basis.

\*\*\*VOLUNTEER/INTERN are those who are identified by LIBC to volunteer their time for a certain project. They cannot be construed in any way to be an employee of LIBC, nor are they eligible for any LIBC benefits. Volunteer/Intern are unpaid. For specific questions and/or concerns refer to the LIBC Volunteer/Intern Policy. If the supervisor intends to pay a volunteer or intern, such person must be categorized as a "Special Project," "Temporary," or another employee category in this Section.

## **201 a EMPLOYMENT DESIGNATION**

Effective Date: 12/1/2015

Each employee shall be designated as either exempt or non-exempt in accordance with the terms of the Fair Labor Standards Act (FLSA). The Human Resources Department has the responsibility for the determination of exempt or non-exempt status based on the duties and responsibilities of the position. An employee's exempt/non-exempt designation may be changed only upon written request by the Executive Director and upon verification and approval of the Human Resources Director.

**NON-EXEMPT** employees are paid an hourly wage for all hours worked in a work week. Non-Exempt employees are entitled to be paid at least the federal minimum wage for all hours worked and overtime pay at time and one-half the regular rate of pay for all hours worked over 40 hours in a work week. Nothing in this section prohibits LIBC from adopting a tribal pay scale that pays a minimum wage that is higher than the federal minimum wage.

Non-Exempt employees cannot waive their rights to overtime pay. A non-exempt employee cannot "bank" extra hours (over 40 hours) worked one week for use *in future work week*. For example, a non-exempt employee who worked 48 hours in one work week cannot "bank" the extra 8 hours and take off 8 hours of work the next week; the non-exempt employee must be paid 8 hours of overtime pay. However, nothing in this section prohibits non-exempt employees from "flexing" extra hours worked during the same work week (in accordance with the flex time rules in Policy 401). For example, if a non-exempt employee works 12 hours in one work day (4 extra hours), he or she may "flex" out that 4 hours of work on another day *within the same work week*.

**EXEMPT** employees are paid in the form of a salary rather than on an hourly basis and are excluded from being paid overtime wages. Exempt employees generally perform duties of an executive, administrative or professional and are paid at least \$455 per week. Exempt employees are expected to work within normal LIBC work hours (Monday-Friday 08:00-4:30) at their designated work area within LIBC (unless otherwise authorized by their supervisor). However, the nature of their positions may require irregular or heavy work schedules at times. Exempt employees are expected to put in the hours necessary to complete their work without additional overtime compensation.

Generally, exempt employees should receive their full salary for each pay period. Salary cannot be reduced because of variations in quality or quantity of work performed. However, in accordance with the FLSA, LIBC may deduct pay from an exempt employee's salary under certain limited circumstances [see FLSA, 29 U.S.C. 201 et seq, 29 C.F.R. Part 541). For more information on when deductions can be made, contact the Human Resources Department.

## **202 Job Posting**

Effective Date: 08/01/00

Job posting is a way to inform employees of openings and to identify qualified and interested applicants who might not otherwise be known to the hiring manager. Other recruiting sources may also be used to fill open positions in the best interest of the organization with the concurrence of the Human Resources Director.

LIBC provides employees an opportunity to indicate their interest in open positions and advance within the organization according to their skills and experience. In general, notices of all regular, full-time job openings are posted, although the management reserves its discretionary right to not post a particular opening with approval from the CEO and Human Resources Director.

Job openings will be posted on the employee bulletin board and in the e-mail system, and normally remain open for a minimum of 3 days. Each job posting notice will include the dates of the posting period, job title, department, location, job summary, essential duties, qualifications (required skills and abilities). To be eligible to apply for a posted job, employees must have performed competently for at least 90 calendar days in their current position. Employees who are in the Orientation process or have a written warning on file (within the immediate prior ninety (90) days), or are on suspension, are not eligible to apply for posted jobs.

Prior to applying for an open position the employee must obtain approval of a transition plan from their current supervisor to ensure a smooth transition for the department. To apply for an open position, employees should submit an application with their approved transition plan to the Human Resources Department. It should also describe how their current experience with LIBC and prior work experience and/or education qualifies them for the position.

The Human Resources Department must receive all applications by 4:30 p.m. on the day indicated on the announcement as the closing date. Late applications will not be considered for the position opening. If the position re-opens any applications that were received will be accepted along with the additional applications during the new opening.

If an employee is laid off from their position they may be eligible to be recalled to their original position by their supervisor within the first 6 months of the layoff and return to their original position.

## **203 Lummi/Indian Preference, Veterans Preference**

Effective Date: 08/04/2009

### **Hiring Preference**

The LIBC promotes the goal of tribal self-sufficiency by employing enrolled members of the Lummi Nation and enrolled Native Americans of other federally recognized Indian tribes at all tribal organizations/entities. To achieve this goal, the Lummi Nation has adopted the following policy.

Preference will be given in filling open positions, in interdepartmental promotions and in making lay-offs and other reductions in force as follows: The highest employment priority will be given to enrolled Lummi Members. The second highest employment priority will be given to other Indians enrolled in federally recognized Indian tribes. When making lay-offs or other reductions in force, retention preference will be given to Lummis and then to other Indians enrolled in federally recognized Indian tribes when there are multiple individuals occupying positions within the same department with the same responsibilities. Some departments or positions may be subject to limitations on their ability to institute "Lummi Preference" based on their funding sources. When such limitations exist, equal hiring preference shall be given to all applicants who are enrolled in a federally recognized Indian tribe.

In order for an enrolled member of the Lummi Nation or other American Indian to receive preference consideration, the Human Resources Department must have official enrollment verification. For new hires and challenges, this documentation must be provided at the time the employment application is submitted.

The Lummi and federally recognized Indian preference will be implemented in open position hiring as follows:

The Human Resources Department will screen applications for open positions and then work with the appropriate Department Director to set up interviews. Enrolled Lummi members who, through the application screening process, appear to meet the minimum job qualifications will be interviewed first. Only if necessary, (due to application screening and/or interviews which indicate that no Lummi Member candidates meet the minimum job qualifications) will an interview be scheduled for an American Indian enrolled in another Federally recognized Indian tribe. Then, and only if necessary, (due to application screening and/or interviews, which indicate that no enrolled member of the Lummi Nation or other American Indian candidates meet the minimum job qualifications) will interviews be scheduled for non-Indians.

Veterans:

Veterans who have been honorably discharged or are current members of the armed forces, the reserves or the National Guard shall receive preference in hiring. If, after completion of the screening and interview process, two or more applicants are



determined to be equally qualified for a position, preference shall be given to the veteran. Documentation of an honorable discharge or current membership in the armed forces, reserves or National Guard must be provided at the time of application.

## **204 Treaty Fishing Rights Related Employee**

Effective Date: 08/01/00

Employees who are enrolled members of any of the Point Elliot Treaty Tribes and are working in a Treaty Fishing Rights Related position may be exempt from paying any federal taxes.

In order to determine if the position is tax exempt the employee and supervisor must complete a Tax Exempt form; provide a copy of enrollment and written documentation on how their exemption is verifiable for tax-exempt status. Exemption may be anywhere from 1% to 100% Tax exempt forms are available in the Human Resources Department. All determinations of whether an employee is eligible for tax exempt status will be made by the Human Resources Director. All documentation must be approved prior to all employees starting in a tax-exempt position.

## **205 Disability Accommodations**

Effective Date: 08/01/00

LIBC is committed to ensuring equal opportunity in employment for qualified persons with disabilities. All employment practices and activities are conducted on a non-discriminatory basis.

Hiring procedures have been reviewed and provide persons with disabilities meaningful employment opportunities. Pre-employment inquiries are made only regarding an applicant's ability to perform the duties of the position.

Reasonable accommodations are available to all disabled employees. When their disability affects the performance of job functions. All employment decisions are based on the merits of the situation in accordance with defined criteria, not the disability of the individual.

Qualified individuals with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) as well as in job assignments, classifications, organizational structures, position descriptions, lines of progression and seniority lists.

LIBC is also committed to not discriminating against any qualified employees or applicants because they are related to or associated with a person with a disability.

## **206 Employee Orientation**

Effective Date: 12/1/2015

All new regular and part time employees on orientation shall go through the New Hire Orientation Training offered by Human Resources. This is a mandatory training intended to introduce new employees to the LIBC organization and Lummi Nation community.

### **INITIAL ORIENTATION**

All regular full-time, regular part-time and part-time employees must complete an initial orientation period. The initial orientation period is intended to give new and rehired employees the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. LIBC uses this period to evaluate employee capabilities, work habits, and overall performance.

The initial orientation period shall be a minimum of ninety (90) calendar days. Any significant absence may extend the orientation period by the length of the absence unless the supervisor waives the extension. A significant absence will be defined by the supervisor and approved by the HR director from the regularly scheduled work week during the initial orientation period. Temporary employees who apply for a regular position with LIBC will have to serve the initial orientation period for a minimum of ninety (90) calendar days regardless of how long they may have worked temporarily for the LIBC. The initial ninety (90) calendar day orientation period may be extended as outlined in this Section.

Prior to the expiration of the initial orientation period, the supervisor will complete a performance evaluation of every employee on initial orientation and make a recommendation as to whether the orientating employee should be taken off initial orientation status, extended on orientation, or terminated.

Satisfactory completion of initial orientation occurs when the employee completes the ninety (90) calendar day orientation period, UNLESS, the orientation period is extended in writing by the supervisor and received by the Human Resources Department PRIOR to the completion of the 90 calendar day period.

Employees who complete the initial orientation period (and are not extended) may be eligible for LIBC provided benefits, subject to the terms and conditions of each benefit program. Employees should read the information for each specific benefit program for the details on eligibility requirements. Failure by the supervisor to complete a performance evaluation and/or take an employee off initial orientation status by the expiration of the initial orientation period shall not prevent the employee from receiving the LIBC benefits he or she is eligible to receive.

During the initial orientation period, in the sole discretion of the supervisor, employees who are not successful in the new position can be removed from the position at any time during the initial orientation period with or without cause. Initial orientation employees are not eligible to file a grievance of such terminations under Section 505 Grievance Procedures.

If the supervisor fails to take an employee off initial orientation status within the initial ninety (90) calendar day orientation period (unless an employee has been placed on extended orientation) the employee shall only be terminated for cause under Section 504 Corrective Disciplinary Action and may be eligible to file a grievance under Section 505 Grievance Procedures.

### **EXTENDED ORIENTATION**

If the employee's supervisor determines that the initial orientation period does not allow sufficient time to thoroughly evaluate the employee's performance, the orientation period may be extended for a specified period upon a written request submitted to Human Resources and to the employee explaining why the orientation period is extended and for what length of time. The orientation period may also be extended due to any significant absence from employment during the orientation period. A significant absence will be defined by the supervisor and approved by the HR director from the regularly scheduled work week during the orientation period.

The supervisor must extend the orientation period within the initial ninety (90) calendar days. For extensions to further monitor performance, the extended orientation period may not exceed an additional (90) calendar days. For extensions due to a significant absence, the extended orientation period will automatically extend the orientation period by the length of the absence unless the supervisor waives the extension.

Satisfactory completion of extended orientation occurs when the employee completes the ninety (90) calendar day initial orientation period and the extension period. The supervisor may remove an extended orientation employee from extended orientation at any time during the extension period.

During the extended orientation period, in the sole discretion of the supervisor, employees who are not successful in the new position can be removed from the position at any time during the extended orientation period with or without cause. Extended orientation employees are not eligible to file a grievance of such terminations under Section 505 Grievance Procedures.

If the supervisor fails to take an employee off extended orientation status before expiration of the extension period the employee shall only be terminated for cause under Section 504 Corrective Disciplinary Action and may be eligible to file a grievance under Section 505 Grievance Procedures.

## **SECONDARY ORIENTATION**

Employees who transfer to another department or entity within LIBC will be placed on a ninety (90) calendar day secondary orientation period. The secondary orientation period is intended to give transferred employees the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. LIBC uses this period to evaluate employee capabilities, work habits, and overall performance.

During secondary orientation, an employee may only be terminated "for cause". If they are terminated "for cause", they may file a grievance under Section 505 Grievance Procedures.

## **207 Performance Evaluations**

Effective Date: 06/21/2011

Supervisors and employees are strongly encouraged to discuss job performance and goals on an informal, regular basis. Formal performance evaluations are conducted at the end of an employee's orientation period in any new position. This period, known as the orientation period, allows the supervisor and the employee to discuss the job responsibilities, standards and performance requirements of the new position.

All regular employees are evaluated during January of each year and are due to the Human Resources Department by January 31st. Education employees are evaluated during the month of March and are due to the Human Resources Department by March 31st, or as per provisions of their employment contracts.

Additional performance evaluations may be conducted to provide both supervisors and employees the opportunity to discuss job tasks, identify and correct weaknesses, encourage recognize strengths and discuss positive, purposeful approaches for meeting goals.

If a performance evaluation identifies areas that need improvement, employees may be placed on a Plan of Improvement to assist them in correcting the job performance deficiencies.

If an employee disagrees with the performance evaluation, they have the opportunity to write their comments along with or directly on the evaluation form. The employee may also submit a self-evaluation. Performance evaluations may not be grieved under Section 505 Grievance Procedures.

## 301 Employee Benefits

Effective Date: 08/01/00

Eligible employees at LIBC are provided a wide range of benefits. A number of the programs (such as Social Security, workers' compensation, disability, and unemployment insurance) cover most employees. (Treaty Fishing Rights Related Employees do not receive the following benefits; Social Security, unemployment insurance).

Benefits eligibility is dependent upon a variety of factors, including employee classification. The Human Resources Department or your supervisor can identify the programs for which you are eligible. Details of many of these programs can be found elsewhere in the employee handbook.

The following benefits programs maybe available to eligible employees:

- \* 401(k) Savings Plan [317]
- \* Benefits Conversion at Termination [301]
- \* Bereavement Leave [308]
- \* Education Assistance [412]
- \* Flextime Scheduling [502]
- \* Health/Dental Insurance [315]
- \* Holidays [302]
- \* Jury Duty Leave [309]
- \* Life Insurance [316]
- \* Long-Term Disability [314]
- \* Medical Leave [304/305]
- \* Military Leave [306]
- \* Pregnancy Leave [304/305]
- \* Severance Pay [404]
- \* Short-Term Disability [313]
- \* Sick Leave [304]
- \* Travel Allowances [704]
- \* Annual Leave [303]
- \* Wellness Program [311]
- \* Witness Duty Leave [310]
- \* Lummi Language [312]
- \* Cultural Leave [307]
- \* Employee Assistance Program (EAP)

Some benefits programs require contributions from the employees, but most are fully paid by LIBC.



### 302 Holidays

Effective Date: 03/14/2018

Eligible Employee Classification(s):

<b>STANDARD</b>	<b>ORIENTATING</b>	<b>CONTRACTED</b>	<b>ELECTED/APPTD</b>	<b>OTHER</b>
Regular FT	Initial	Employment*	Elected Officials	Temporary**
Regular PT	Extended	Education*	Council Appt/Staff	On-call**
Part Time	Secondary			
Special Projects*				

\*\* Holiday pay will only be paid if the employee is scheduled to work on the holiday

LIBC grants holiday benefits to all eligible employees for the recognized holidays listed in this policy. For most eligible employees the holiday benefit will be holiday pay and the day off of work on the date of the observed holiday. However, there may be situations where this LIBC standard holiday benefit does not apply. This policy addresses non-standard situations and how holiday pay is calculated.

**"LIBC Recognized Holidays"** are:

RECOGNIZED HOLIDAY	CALENDAR DATE OF HOLIDAY
New Year's Day	January 1
Treaty Day	January 22
President's Day	Third Monday in February
Billy Frank Jr. Day	March 9
Good Friday	Friday before Easter Sunday
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day After Thanksgiving	Day After Thanksgiving
Christmas Day	December 25
1 Floating Holiday	Before December 14 Employee's Choice with Supervisor's approval. It does not roll over to the next year.
2 Employee Choice Holidays	Voted on Each Year by Employees

**“Calendar Holiday”** shall be defined as the date that the recognized holiday falls on the actual 12-month calendar (as listed in the above table of recognized holidays).

**“Observed Holiday”** shall be defined as the date LIBC designates to observe a recognized holiday. This may or may not be the same date as the calendar holiday. A calendar holiday that falls on a Saturday will be observed on the preceding Friday. A calendar holiday that falls on a Sunday will be observed on the following Monday. Recognized holidays that fall on a Monday – Friday, will be observed on the calendar date of the holiday. LIBC only pays holiday pay for observed holidays.

### **ELIGIBLE EMPLOYEES REQUIRED TO WORK ON AN OBSERVED HOLIDAY**

For particular fields of employment, some eligible employees may be required to work on an observed holiday by their supervisor.

If an eligible non-exempt employee is required to work by their supervisor on an observed holiday, that employee will receive holiday pay in addition to their regular rate of pay for the date of the worked observed holiday.

- Example: A non-exempt employee works Monday – Friday. LIBC has a scheduled holiday on Monday. The supervisor requires the employee to work on Monday (even though it is a scheduled holiday). The non-exempt employee will be paid his regular rate of pay for the actual hours worked and will be paid up to an additional 8 hours of holiday pay during that pay period.

If an eligible exempt employee is required to work by their supervisor on an observed holiday, that employee may designate another date within the same pay period to take off with holiday pay with the approval of their supervisor. Exempt employees do not get paid overtime or additional holiday pay for working on an observed holiday.

### **ELIGIBLE EMPLOYEES WITH NON-STANDARD SCHEDULES**

For particular fields of employment, some eligible employees do not work a standard LIBC schedule (Monday – Friday, 8:00 a.m. to 4:30 p.m.). For these employees, an observed holiday may be a day they would have had off of work regardless of the holiday.

If an observed holiday falls on a day that an eligible employee was scheduled to have off of work as part of their standard weekly schedule, the supervisor or director has two options (in priority order): (1) the employee may designate another date within the same pay period to take off with holiday pay with his or her supervisor’s approval or (2) if the supervisor determines that it is not feasible for a non-exempt employee to do this, that employee may receive holiday pay for the date of the observed holiday. However, the eligible non-exempt employee shall not receive both holiday pay and time off.

- Example: A non-exempt employee works Wednesday – Sunday. LIBC has a scheduled holiday on Monday (a day that this employee would have off, even if there was no LIBC holiday). The supervisor will need to decide if this non-exempt employee can:
  - (1) take off one of his scheduled work days (Wed.-Sun.) in this pay period in lieu of the Monday LIBC holiday – for instance, the employee’s supervisor may designate Wednesday as his holiday and the employee would get to take Wednesday off and be paid holiday pay;

OR

- (2) be paid holiday pay in addition to his regular hours worked. This means that the employee would work his full normal schedule Wed.-Sun. workweek and be paid his regular rate of pay and he will be paid up to an additional 10 hours (based on their normal work week) of holiday pay during that pay period.

### **OBSERVED HOLIDAY FALLS DURING ELIGIBLE EMPLOYEE’S LEAVE**

If an observed holiday falls during an eligible employee’s paid absence (such as Annual or Sick Leave), the employee shall be paid holiday pay instead of the paid time off benefit that would otherwise have applied.

Otherwise eligible exempt and non-exempt employees that are on unpaid administrative leave, leave without pay or medical leave , military leave, or on short-term or long-term disability (as of the date of the holiday) shall not be eligible to receive holiday pay.

### **LUMMI NATION SCHOOL EMPLOYEES**

LIBC recognizes that the Lummi Nation School employees may be subject to follow the school calendar for holidays in lieu of the holidays in this policy. School employees should refer to Lummi Nation School policies, procedures, guidelines, and/or education contracts for details on holiday benefits.

### **ALL OTHER ELIGIBLE EMPLOYEES**

All other eligible employees will receive the day off of work on the date of the observed holiday and they will receive holiday pay for that observed holiday date.

### **HOLIDAY PAY CALCULATION**

Holiday pay will only be paid for the observed holiday date that LIBC designates in recognition of a holiday. Holiday pay will not be granted to any eligible employee for both the calendar holiday and the observed holiday.

Holiday pay for eligible non-exempt employees will be calculated based on the employee's straight-time pay rate (as of the date of the holiday) multiplied by the average number of hours the employee would otherwise have normally worked on that day based on the FTE designation (not to exceed 10 hours).

- Example #1: An employee works 40 hours per week (1 FTE) at \$15 per hour. This employee works an average of 10 hours a day (40 hours / 4 days). Therefore, this employee will be paid \$150.00 in holiday pay ( $\$15 \times 10$  hours).
- Example #2: An employee works 40 hours per week (1 FTE) at \$15 per hour. This employee works an average of 8 hours a day (40 hours / 5 days). Therefore, this employee will be paid \$120.00 in holiday pay ( $\$15 \times 8$  hours).
- Example #3: An employee works 30 hours per week (.75 FTE) at \$15 per hour. This employee works an average of 6 hours a day (30 hours / 5 days). Therefore, this employee will be paid \$90.00 in holiday pay ( $\$15 \times 6$  hours).
- Example #4: An employee works 20 hours per week (.50 FTE) at \$15 per hour. This employee works an average of 4 hours a day (20 hours / 5 days). Therefore, this employee will be paid \$60.00 in holiday pay ( $\$15 \times 4$  hours).

Holiday pay for eligible exempt employees will be calculated by dividing the employee's weekly salary by the number of days the employee would otherwise have been scheduled to normally work.

Example #1: An exempt employee's weekly salary is \$1,500.00. The employee is expected to work five days a week. Therefore, the exempt employee's holiday pay would be \$300 ( $\$1,500.00 / 5$  days).

Paid time off for holidays will not be counted as hours worked for the purposes of determining overtime for non-exempt employees.

### 303 Annual Leave

Effective Date: 05/07/2013

In the interest of the overall health and wellness of LIBC employees and the Lummi community, regular part-time and regular full-time employees will earn annual leave. LIBC encourages its employees to use their annual leave in ways that will make them healthier and more efficient employees. Annual leave will be accrued after 90 days of employment. Annual leave will accrue in proportion to the number of hours worked and accrual rates will be based on the following tables:

#### Non-Exempt "hourly" Employees

Years of Service	Date of Hire – 5 years	6 – 10 years	11 – 15 years	16 + years
Annual leave days per year	12	18	21	24

#### Exempt "salary" Employees

Years of Service	Date of Hire – 5 years	6 – 10 years	11 – 15 years	16 + years
Annual leave days per year	17	23	26	29

An employee's Date of Hire shall not "reset" if they move from a non-exempt position to an exempt position (or visa-versa).

Employees may not accrue more than 240 hours of annual leave. Accrual will not occur after this threshold is reached.

Annual leave shall only be taken with prior approval of an employee's supervisor, but this approval shall not be unreasonably withheld.

Annual leave shall be taken in one hour increments by exempt "salaried" employees.

### Donation of Annual Leave

Employees may donate annual leave to other employees when an employee has missed three or more days of work due to their own illness or the illness of an immediate family member. Donated leave will be converted to a cash value based on the donor's rate of pay and reconverted back to a time/hour value based on the donee's rate of pay. Donated leave may not be used until an employee's own sick and annual leave is exhausted. Donated leave must be used within the pay period in which it was donated.

## **Cash Payout of Annual Leave**

Each year the LIBC will determine if they have sufficient funds to support an employee cash payout of accrued annual leave. If supported, LIBC will approve the funding through the budget appropriations process. To be eligible for a cash payout, employees must meet all these requirements:

- Completed three (3) years of service, calculated on their latest date of hire;
- Must first use forty (40) consecutive hours of annual leave in the calendar year;
- Must maintain a minimum balance of forty (40) hours;
- Maximum annual amount of cash payout is forty (40) hours

Eligible employees may only receive a cash payout one time per calendar year, as approved by LIBC, the approved cash payout hours will be determined annually as part of the appropriation process. Requests for cash payout of annual leave must be made in writing and submitted to Human Resources. The approved cash payout will be subject to standard payroll taxes and considered income. Approved cash payout will be paid on the off-payroll weeks.

For cash-out upon separation see Section 502 Employment Separation.

## **304 Sick Leave**

Effective Date: 05/05/2009

Sick leave will be accrued by all regular full-time and part-time employees after 90 days of employment. All regular employees (both full-time and part-time employees) will accrue sick leave at a rate that results in a total of 12 days per year.

Employees who are unable to report to work due to illness or injury should attempt to notify their direct supervisor before the scheduled start of their workday or within 15 minutes of their scheduled start time.

If a supervisor believes an employee is not fit for duty after absence due to illness or injury, the supervisor may require the employee to get medical clearance before returning to work.

Employees may not accrue more than 240 hours of sick leave. Accrual will not occur after this threshold is reached.

Sick leave hours are intended solely to provide income protection in the event of illness or injury. Sick leave may be used to care or attending medical appointments for the employee or a member of the employee's immediate family. Unused sick leave hours will not be "cashed out" to employees upon termination of employment.

Employees may not donate sick hours to other employees.

## **305 Leave Without Pay and Medical Leave Without Pay**

Effective Date: 05/05/2009

### **Leave Without Pay**

Employees who have used all of their sick and annual leave may, with their supervisor's permission, take Leave Without Pay (LWOP) for either medical or non-medical reasons once their Medical Leave Without Pay (MLWOP) 12 week per calendar year limit is reached. When an employee is absent on LWOP for three weeks, the supervisor must complete a change of status form with the Human Resources Department. Absences for fewer than three weeks when annual and sick leave are exhausted will not result in a change in status. During Leave Without Pay, employees will not receive their regular benefits. However, medical coverage will continue through the end of the month in which the employee's MLWOP eligibility ends. At the conclusion of the employee's medical coverage eligibility, they will be issued a COBRA notice.

### **Medical Leave Without Pay**

Employees may take MLWOP for childbirth, adoption, care of an ill immediate family member and their own extended illness. In order to be eligible for MLWOP an employee must have worked for the employer at least 12 months and also must have worked 1250 hours in the 12 months preceding application for MLWOP. While on MLWOP, employees shall receive all medical benefits they would normally receive while working. However, they shall not be eligible for other LIBC employee benefits. Employees shall be eligible for 12 weeks of MLWOP in a calendar year. (This may be taken all at one time or intermittently, including a reduction in hours worked.) MLWOP will run concurrent with any use of LIBC provided disability benefits, but an employee's use of sick leave will not be counted toward the 12 week calendar year MLWOP limit.

If possible, an employee should give their supervisor advance notice of their intent to go on MLWOP. The supervisor should, in turn notify the Human Resources Department, who will execute a change in status. If advance notice is not possible, the employee's status will be changed to MLWOP effective the first day of their absence. Employees should make their best efforts to keep their supervisor up to date on the timeframe for their expected return to work. If an employee has been on MLWOP due to their own illness, they must provide the Human Resources Department verification from a health care provider that they are fit to return to work.

### **Family Medical Leave Act**

The Lummi Nation will, as a best practice, provide at least the minimum requirements of the Family Medical Leave Act.



## 306 Military Leave

Effective Date: 03/14/2018

Eligible Employee Classification(s):

STANDARD	ORIENTATING	CONTRACT	ELECTED OR APPOINTED	OTHER
Regular FT	Initial	Employment	Elected Officials	Temporary
Regular PT	Extended	Education	Council Appt/Staff	
Part Time	Secondary			
Special Projects				

A military leave of absence will be granted to employees who are absent from work because of service in the U.S. uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA).

Eligible military duties include leaves of absence taken by members of the uniformed services, including Reservists, National Guard members for training, periods of active military service, and funeral honors duty, as well as time spent being examined to determine fitness to perform such service. Subject to certain exceptions under the applicable laws, these benefits are generally limited to five years of leave of absence.

Advance notice of military service is required, unless military necessity prevents such notice or it is otherwise impossible or unreasonable. An employee should provide their supervisor with notice of the need for leave as far in advance as is reasonable under the circumstances. To request a temporary or extended military leave of absence, the employee should generally complete a Request for Leave Form from Human Resources. Written notice is preferred, but not required under the law or this policy. The employee, or the employee's supervisor, must also immediately notify the Human Resources Department to arrange for the collection any applicable insurance premiums from the employee, generate other applicable documents, and process the leave accordingly.

Employees will receive partial pay for two-week training assignments and shorter absences. Upon presentation of satisfactory military pay verification data, employees will be paid the difference between their normal base compensation and the pay (excluding expense pay) received while on military duty.

The portion of any military leave in excess of two weeks will be unpaid.

Employees on military leave may, at their option, use any or all accrued paid annual leave, earned compensatory time off, or unused personal floating holiday during their military absence.

Continuation of health and dental insurance benefits is available as required by USERRA based on the length of the leave and subject to the terms, conditions and limitations of the applicable plans for which the employee is otherwise eligible.

Benefit accruals, such as annual and sick leave hours, or holiday benefits, will be suspended during military leave that is more than 30 consecutive days and will resume upon the employee's return to active employment.

Employees on military leave for up to 30 days are required to return to work for the first regularly scheduled shift after the end of service, allowing reasonable travel time. Employees must contact the Human Resources Department immediately upon return to work to change their employment status.

Employees on longer military leave must apply for reinstatement in accordance with the USERRA. The employee must contact the Human Resources Department to apply for reinstatement within the application periods set forth in the USERRA.

Employees returning from military leave will be placed in the position they would have attained had they remained continuously employed or a comparable one depending on the length of military service in accordance with USERRA. They will be treated as though they were continuously employed for purposes of determining benefits based on length of service.

For more information or questions about Military Leave and how Military Leave impacts other benefits (including but not limited to Life Insurance, Disability, 401k), contact the Human Resources Department

## **307 Cultural Leave**

Effective Date: 08/01/00

Eligible employees shall be permitted to use their Annual, Sick, and leave without pay for the purposes of entering the cultural activity of "Seowyn".

Employees in the following employment classifications are eligible to request Cultural Leave:

- Regular full-time employees entering Seowyn
- Regular part-time employees entering Seowyn

A combination of annual, sick and leave without pay may be granted for a period of up to four (4) weeks. This period may be extended with the concurrence of a Cultural Committee request.

The employee is responsible for making known the intention to request leave for cultural purposes including the type of leave, approximate dates, and anticipated duration in order to allow the department to prepare for the staffing adjustments which may be necessary.

The employee's position may be filled on a temporary basis during the employee's absence.

## 308 Bereavement Leave

Effective Date: 03/14/2018

Eligible Employee Classification(s):

<b>STANDARD</b>	<b>ORIENTATING</b>	<b>CONTRACT</b>	<b>ELECTED OR APPOINTED</b>	<b>OTHER</b>
Regular FT	Initial	Employment	Elected Officials	Temporary
Regular PT	Extended	Education	Council Appt/Staff	
Part Time	Secondary			
Special Projects				

LIBC recognizes that employees who lose a loved one need to go through a healthy grieving process. Employees who wish to take time off due to the death of a family member should notify their supervisor immediately and complete a Request for Leave form. Bereavement Leave will normally be granted unless there are unusual business needs or staffing requirements. Supervisors are encouraged to allow employees flextime while they are grieving.

Eligible employees may be granted paid Bereavement Leave based on the following categories:

### Category One – Immediate Family:

LIBC will pay up to five (5) days of Bereavement Leave for absence due to the death of an Immediate Family Member. Employees may receive up to two (2) additional days of paid Bereavement Leave for out-of-state services. If possible, employees should request approval from their immediate supervisor at least 24 hours in advance of such absence.

Immediate Family Member is defined as:

- Spouse, father, mother, child, sister, brother, aunt, uncle, niece, nephew, grandparents, grandchildren, first cousin,
- Employee's spouse's father, mother, child, sister, brother, aunt, uncle, niece, nephew, grandparents, grandchildren, first cousin, or
- Employee's child's spouse.

Special consideration will also be given to any other person whose association with the employee was similar to any of the above relationships.

### Category Two – Extended Family and Funeral Participants:

LIBC will pay up to two (2) days of Bereavement Leave for absence due to the death of an extended family member or if the employee is asked by the family to participate in a

funeral service. Employees may receive up to two (2) additional days of paid Bereavement Leave for out-of-state services. If possible, employees should request approval from their immediate supervisor at least 24 hours in advance of such absence.

Participant in a funeral service include:

- Family speakers, funeral work helpers, casket sitters, casket makers, grave diggers, traditional dressers, traditional burners, traditional hunters, traditional fishers, traditional gatherers, traditional healers, traditional singers, honor guard, cooks, cook helpers, witnesses, pallbearers and honorary pallbearers

#### Category Three – All Other Funerals:

Employees may request Bereavement Leave to attend any other funeral service not to exceed eight (8) hours. Employees must request approval from their immediate supervisor at least 24 hours in advance of such funeral. Supervisors may deny such a request if sufficient notice is not provided, or if the employee's absence will impact the needs of the departments or sufficient staffing. Employees are not entitled to the full eight (8) hours and supervisors may grant Category Three Bereavement Leave only for that period of time that is necessary for the employee to attend the funeral (i.e. for 30 minutes before the funeral until 30 minutes after the funeral).

Employees requesting Category Three Bereavement Leave are expected to use this time to attend funeral services.

Outside the paid Bereavement Leave times outlined in the categories above, employees may seek their immediate supervisor's approval to use Sick Leave, Annual Leave, Compensatory Time Off, or Leave Without Pay for additional time off for the above purposes..

If there is a discrepancy between the immediate supervisor and an employee regarding the definitions listed above or what category a particular situation should be classified, the supervisor shall go up the chain-of-command to the next tribal member supervisor whose interpretation of the definition is final.

Bereavement Leave is calculated based on the base rate at the time of absence and will not include any special forms of compensation, such as incentives, commissions, bonuses, or shift differentials.

Bereavement Leave is a benefit allowing employees to endorse a healthy grieving process regarding death and grief. Any employee found to have abused this Policy may be denied paid Bereavement Leave and, if necessary, subject to an Administrative Pay Correction, and corrective disciplinary action, up to and including termination.

### 309 Jury/Witness Duty

Effective Date: 03/14/2018

Eligible Employee Classification(s):

<b>STANDARD</b>	<b>ORIENTATING</b>	<b>CONTRACT</b>	<b>ELECTED OR APPOINTED</b>	<b>OTHER</b>
Regular FT	Initial	Employment	Elected Officials	Temporary
Regular PT	Extended	Education	Council Appt/Staff	
Part Time	Secondary			
Special Projects				

LIBC supports and encourages employees to fulfill their civic responsibilities by reporting for jury duty and appearing in court when subpoenaed to do so. LIBC will provide Jury Duty Pay and Witness Duty Pay, in accordance with this Policy, to eligible employees who are required to serve on jury duty or act as a court witness.

**Jury Duty Pay:** An Eligible Employee who has received a jury duty summons will receive Jury Duty Pay for each day that the employee is required to report for jury duty. Jury Duty Pay will be calculated on the employee's normal base pay rate times the number of hours the employee would otherwise have worked on the day of absence. Jury Duty Pay is in addition to any pay from the court for jury duty.

**Witness Duty Pay:** An Eligible Employee who has been subpoenaed to testify as a witness will be granted Witness Duty Pay calculated as the employee's regular rate of pay for up to a maximum of eight (8) hours per year.

Upon receipt of a jury summons or subpoena from a court of law, employees must notify and provide copies of the jury summons or subpoena to their supervisor as soon as possible. The supervisor will make scheduling arrangements to accommodate the employee's obligation.

As jury and witness duty often do not require a full time commitment, employees are expected to report to work on days or reasonable portions of days when attendance in court is not required. Employees are responsible for keeping their supervisor informed about the amount of time required for jury duty or court appearance as the employee receives such information.

Accrual of all benefits, including but not limited to Annual and Sick Leave, will continue without interruption during jury and witness duty.

Employees appearing in their own case as a plaintiff or defendant or for a non-subpoenaed court appearance will not be eligible for Jury Duty Pay or Witness Duty Pay. Annual Leave, Leave Without Pay, or Compensatory Time Off should be used in such instances.

## 310 Employee Assistance Program (EAP)

Effective Date: 03/14/2018

Eligible Employee Classification(s):

<b>STANDARD</b>	<b>ORIENTATING</b>	<b>CONTRACT</b>	<b>ELECTED OR APPOINTED</b>	<b>OTHER</b>
Regular FT	Initial	Employment	Elected Officials	Temporary
Regular PT	Extended	Education	Council Appt/Staff	Employee's Family members
Part Time	Secondary			
Special Projects				

LIBC provides confidential assistance through its Employee Assistance Program (EAP) to all employees and their family members who may be faced with personal problems which can affect the employee's attendance or work performance. EAP may help employees and their families and they are encouraged to take advantage of this benefit to work through these personal difficulties.

The LIBC has contracted with an outside agency staffed by professional counselors off of the LIBC Administration campus. There is no charge for employees or their families to use the services of the EAP. EAP can assist with a wide range of issues including financial concerns, legal issues, alcohol or drug problems, marital problems, illness or death of a family member, emotional worries, child care problems and other issues. Employees may obtain information about EAP from the Human Resources Department.

Employees may be referred to EAP in one of two ways:

### **1. Voluntary Self-Referral**

An employee may voluntarily contact EAP at any time for assistance.

If employees want to visit EAP during normal work hours, employees may use accrued Sick Leave. If Sick Leave is not available, employees may also use Annual Leave, Compensatory Time Off or Leave Without Pay. Alternatively, supervisors are encouraged to allow employees to make up any hours missed time through the use of flextime in accordance with Policy 401 (Work Schedules and Flex Time).

Information regarding the reasons employees are voluntarily seeking assistance through EAP is strictly confidential. Supervisors should not ask what the reasons are and, if an employee volunteers any information, it should be treated confidentially.

### **2. Job Performance Referral**



When an employee's job performance or attendance is unsatisfactory or there appear to be signs of other problems during the workday, the supervisor, in consultation with the Human Resources Department, may refer an employee to EAP to assist in the resolution of the problem.

Depending on the situation, the employee may accept or refuse participation in the EAP. However, there may be situations where the EAP referral occurs in conjunction with some form of corrective disciplinary action. If the EAP referral is part of a corrective disciplinary action, continued employment at LIBC may be contingent on the employee's calling the EAP for assistance, completing the EAP assessment, and following through with all recommendations made by the EAP counselor.

Scheduled appointments for the assessment visits should be recorded as time worked. Employees will not have their time docked for job performance-referred EAP assessment appointments.

If additional treatment sessions are necessary during normal work hours, employees may use accrued Sick Leave. If Sick Leave is not available, employees may also use Annual Leave, Compensatory Time Off or Leave Without Pay. Alternatively, supervisors are encouraged to allow employees to make up any hours missed time through the use of flextime in accordance with Policy 401 (Work Schedules and Flex Time).

Although case specifics will be treated confidentially, EAP will keep Human Resources apprised of employees' general progress, such as whether they have attended scheduled meetings and are cooperating, and whether they are attempting to resolve the issues adversely influencing their work performance.

If job performance does not improve, the supervisor may continue the corrective disciplinary process, whether or not the employee contacted EAP

## 311 Fitness

Effective Date: 03/14/2018

Eligible Employee Classification(s):

<b>STANDARD</b>	<b>ORIENTATING</b>	<b>CONTRACT</b>	<b>ELECTED OR APPOINTED</b>	<b>OTHER</b>
Regular FT		Employment	Elected Officials	
Regular PT	Extended	Education	Council Appt/Staff	
	Secondary			
*Special Projects				

\*Depending on terms of the contract and/or funding source

The LIBC encourages its employees to participate in fitness activities such as walking, running, meditation, massages, and exercising at the Lummi Fitness Center.

### **Lummi Fitness Center Membership**

Eligible LIBC employees are offered a free membership to the Lummi Fitness Center. For instructions on how to become a member and information on business hours, facilities, classes, and other questions, contact the Lummi Fitness Center.

### **Paid Fitness Break**

Eligible employees may receive up to three (3) paid Fitness Breaks each week to participate in the fitness activity of their choice. Fitness Breaks may not exceed thirty (30) minutes per day.

Fitness Breaks must be approved by the employee's immediate supervisor. A written agreement shall be signed between the employee and supervisor. The agreement shall include a schedule that indicates when the employee will arrive and depart from work as well as when they will be away to participate in their fitness activities. If the employee misses their scheduled time they may not be able to make that time up later. Employees participating in fitness activities will be expected to complete their normal workloads on the days they are participating. The supervisor shall provide a copy of the fitness schedule agreement to the Human Resources Department.

The employee's fitness time is to be staggered with other employees within the department so no office is left unattended.

## **312 Lummi Language**

Effective Date: 08/01/00

It is the policy of the LIBC to support the restoration of the Lummi Language (Xwlemi chosen) by allowing interested tribal employees thirty (30) minutes daily to participate in a language class.

If the employee is required to be on the job for special work related project issues, research or task, the employee is expected to attend to her/his position responsibilities and forego the thirty-minute class time.

An agreement is to be signed between the employee and their immediate supervisor to verify that the time taken is for the Lummi language course and not for conducting other business or used for an excuse for arriving late. Employees who clock in for work are still expected to clock in before the normal starting hour.

No office is to be left unattended. The employee's time and attendance is to be staggered so someone will always be present to answer the phones, take messages and greet visitors, etc.

## **313 Short-Term Disability**

Effective Date: 08/01/00

LIBC provides a short-term disability (STD) benefits plan to eligible employees who are unable to work because of a qualifying disability due to an injury or illness that is non-work related. Employees in the following employment classifications are eligible to participate in the STD plan in accordance to plan requirements:

- \* Regular full-time employees
- \* Regular part-time employees ( working 21 or more hours per week)

Eligible employees may participate in the STD plan subject to all terms and conditions of the agreement between LIBC and the insurance carrier. Employees may use their annual and sick leave hours to make up the difference in their normal paychecks.

Disabilities arising from pregnancy or pregnancy related illness are treated the same as any other illness that prevents an employee from working. Disabilities covered by workers' compensation are excluded from STD coverage.

Details of the STD benefits plan including benefit amounts, when they are payable, limitations, restrictions, and other exclusions are described in the Summary Plan Description provided to eligible employees. Contact the Benefit Coordinator in the Human Resources Department or more information about STD benefits.

Employees who are released from their doctor for light duty will be required to notify their supervisor and return to work immediately for light duty. Employees on light duty may have to perform duties in another department and return to their position when their doctor approves of full duty responsibility and provides written notice.

## **314 Long-Term Disability**

Effective Date: 08/01/00

LIBC provides a long-term disability (LTD) benefits plan to help eligible employees cope with an illness or injury that results in a long-term absence from employment. LTD is designed to ensure a continuing income for employees who are disabled and unable to work.

Employees in the following employment classifications are eligible to participate in the LTD plan:

- \* Regular full-time employees
- \* Regular part-time employees ( working 21 or more hours per week)

Eligible employees may participate in the LTD plan subject to all terms and conditions of the agreement between LIBC and the insurance carrier. Eligible employees may begin LTD coverage only after completing ninety (90) calendar days of service.

LTD benefits are offset with amounts received under Social Security for the same time period.

Details of the LTD benefits plan including benefit amounts, limitations, and restrictions are described in the Summary Plan Description provided to eligible employees. Contact the Benefit Coordinator in the Human Resources Department for more information about LTD benefits.

Employees who are released from their doctor for light duty will be required to notify their supervisor and return to work immediately for light duty. Employees on light duty may have to perform duties in another department and return to their position when their doctor approves of full duty responsibility and provides written notice.

## **315 Health/Dental Insurance**

Effective Date: 08/01/00

LIBC's health/dental insurance plan provides employees and their dependents access to medical and dental insurance benefits. Employees in the following employment classifications are eligible to participate in the health/dental insurance plan:

- \* Regular full-time employees
- \* Regular part-time employees ( working 21 or more hours per week)

Eligible employees must participate in the health/dental insurance plan subject to all terms and conditions of the agreement between LIBC and the insurance carrier unless proof of other coverage is provided to the Human Resources Department Benefits Coordinator.

A change in employment classification that would result in loss of eligibility to participate in the health/dental insurance plan may qualify an employee for benefits continuation under the Consolidated Omnibus Budget Reconciliation Act (COBRA). Contact the Benefits Coordinator in the Human Resources Department for more information on health/dental insurance continuation.

Details of the health/dental insurance plan are described in the Summary Plan Description (SPD). SPD and information on cost of coverage will be provided in advance of enrollment to eligible employees. Contact the Benefit Coordinator in the Human Resources Department for more information about health/dental insurance benefits.

## **316 Life Insurance**

Effective Date: 08/01/00

Life insurance offers you and your family important financial protection. LIBC provides a basic life insurance plan for eligible employees.

Accidental Death and Dismemberment (AD&D) insurance provides protection in cases of serious injury or death resulting from an accident. AD&D insurance coverage is provided as part of the basic life insurance plan.

Employees in the following employment classifications are eligible to participate in the life insurance plan:

- \* Regular full-time employees
- \* Regular part-time employees ( working 21 or more hours per week)

Eligible employees may participate in the life insurance plan subject to all terms and conditions of the agreement between LIBC and the insurance carrier.

Details of the basic life insurance plan including benefit amounts are described in the Summary Plan Description provided to eligible employees. Contact the Benefit Coordinator in the Human Resources Department for more information about life insurance benefits.

## **317 401(k) Savings Plan**

Effective Date: 08/01/00

LIBC has established a 401(k) savings plan to provide employees the potential for future financial security for retirement.

To be eligible to join the 401(k) savings plan, an employee must complete 90 days of service and be 21 years of age or older. An employee may join the plan only during open enrollment periods. Eligible employees may participate in the 401(k) plan subject to all terms and conditions of the plan.

The 401(k) savings plan allows an employee to elect how much salary to contribute and direct the investment of her/his plan account, so he/she can tailor the retirement package to meet individual needs.

Because employee contribution to a 401(k) plan are automatically deducted from pay before federal tax withholdings are calculated, employees save tax dollars now by having their current taxable amount reduced. While the amounts deducted generally will be taxed when they are finally distributed, favorable tax rules typically apply to 401(k) distributions.

Complete details of the 401(k) savings plan are described in the Summary Plan Description provided to eligible employees. Contact the Benefit Coordinator in the Human Resources Department for more information about the 401(k) plan.



## **318 COBRA (Benefits Conversion at Separation)**

Effective Date: 03/14/2018

Under the Consolidated Omnibus Budget Reconciliation Act (COBRA), eligible employees and their qualifying beneficiaries are offered the opportunity to continue health insurance coverage under the LIBC health plan for a limited period of time, at the employee's own expense, when a "qualifying event" would normally result in the loss of eligibility. Common examples of qualifying events include termination of employment, death of the employee, reduction in work hours, divorce or legal separation, a covered employee's becoming entitled to Medicare, and a child's loss of dependent status (and therefore coverage) under the plan. The length of COBRA coverage differs depending on the reason for eligibility.

Under COBRA, the employee or beneficiary pays the full cost of coverage at LIBC's group rates plus an administration fee. LIBC makes every effort to notify eligible employees of their rights under COBRA when LIBC is aware of a qualifying event. However, Human Resources cannot be aware of every instance where an employee has a qualifying event. When an employee experiences a qualifying event and want to continue medical benefits under COBRA, notification must be provided to the Human Resources Department as soon as possible.

To ensure continuance of coverage or for information about rates, length of COBRA coverage, or other questions, contact the Human Resources Department.

## **319 Social Security**

Effective Date: 03/14/2018

Unless exempt pursuant to Policy 204 (Treaty Fishing Rights Related Employees) of this Manual, LIBC pays a set percentage (in relation to income) to the federal Social Security (FICA)/Medicare system on behalf of every employee, and makes a mandatory payroll deduction for the employee's share of Social Security contributions. Eligibility, administration, and benefit determinations are made by the Social Security Administration.

## **320 Unemployment Insurance**

Effective Date: 03/14/2018

LIBC pays the entire cost of the Unemployment Insurance Program. Eligibility, administration, and benefit determinations are made by the Washington State Employment Security Department. For more information or other questions, contact the Human Resources Department.

## **321 Workers' Compensation**

Effective Date: 03/14/2018

LIBC carries Sovereign Nation Workers' Compensation Insurance for eligible employees who suffer a qualifying work-related bodily injury by accident or disease. Such accident or disease must be reported promptly (within 24 hours) to a Supervisor or the LIBC Workplace Safety Officer. Necessary forms must be completed with the Human Resources Department. Failure to submit reports promptly may result in delay in payment or denial of benefits. Employees should refer to the LIBC Safety Manual for more information on the workplace safety policies and procedures. Eligibility, administration and benefit determinations are made by the insurance company and are governed by the terms of the insurance policy. For more information on the Workers' Compensation benefit, contact the Human Resources Department.

## **401 Work Schedules**

Effective Date: 12/1/2015

### **STANDARD SCHEDULES**

The standard LIBC work week is Monday through Friday 8:00AM – 4:30PM. The normal work schedule for all employees (exempt and non-exempt) is 8 hours a day, 5 days a week. For payroll and overtime purposes, the standard work week consists of seven days, 12:01 a.m. Sunday through midnight the following Saturday. Supervisors will advise employees of the times their schedules will normally begin and end.

### **MEAL/REST PERIODS**

The scheduling of meal periods is set by the employee's immediate supervisor with the goal of providing the least possible disruption to LIBC operations.

Meal/Rest periods are times for employees to conduct personal business, which may include, errands, on-line banking, smoking (per HR policy 602), etc.

#### **Meal Break**

All employees (exempt and non-exempt) who work at least five (5) consecutive hours will be provided a meal break.

Eligible non-exempt employees are entitled to a thirty (30) minute meal break. Non-exempt employees are to be completely relieved of all job duties while on meal breaks and must clock out for the entire duration of their meal breaks. Any meal break that exceeds thirty (30) minutes must be approved by the employee's supervisor. The meal break is unpaid and will not be included in the total hours of work per day. Combining meal breaks with paid rest breaks, fitness time, or other authorized breaks is at the sole discretion of the employee's supervisor.

Eligible exempt employees may choose to take meal breaks as needed, with the goal of providing the least possible disruption to LIBC operations

#### **Rest Breaks**

Non-exempt employees are entitled to a paid fifteen (15) minute rest break for every four (4) hours worked. Non-exempt employees on rest breaks are not required to clock in and clock out.

Exempt employees may choose to take breaks as needed with the goal of providing the least possible disruption to LIBC operations

#### **Impermissible Use of Meal Break and/or Rest Breaks**

Neither the meal break nor the rest break(s) may be used to account for an employee's late arrival or early departure.

## **SHIFT SCHEDULES**

Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week. This may include working evenings, weekends and holidays.

## **CALL SCHEDULES (AFTERHOURS)**

Staffing needs and operational demands may necessitate employees to be available after hours to provide services. Call schedules/assignments cannot be assigned to non-exempt employees.

## **FLEXIBLE SCHEDULE ("FLEX TIME")**

Flexible scheduling or "flex time" is when an employee's weekly schedule varies from their regular work schedule to allow employees to vary their regular starting and ending times each day to accommodate childcare, personal obligations and appointments, family emergencies, or other important responsibilities.

Exempt and non-exempt employees may work out a flextime schedule with their supervisor. Non-exempt employees may flex the hours worked each day so long as their weekly hours worked do not exceed 40 hours in a single workweek unless overtime compensation is paid (refer to HR policy 409 for guidance). Employees must consult their supervisor to request approval of a flexible schedule.

LIBC recognizes the importance and value of childcare, family care and personal responsibilities. Supervisors will attempt to support flex time scheduling but may also have to consider such issues as staffing needs, the employee's performance, the nature of the job, and customer service when deciding whether to approve a flexible schedule.

A flexible schedule may be on-going or arranged for a particular workday or workweek only, so long as it is approved by the supervisor. At any point, the supervisor may determine that the flexible schedule is no longer working and the employee may be required to return to the normal LIBC work schedule. The supervisor must have any approved flexible schedule (whether it be for one workday, one workweek, or on-going) in writing.

Example #1: A non-exempt employee's regular weekly schedule is Monday-Friday, 8:00 a.m. to 4:30 p.m. On Monday, an employee's daycare is closed and she needs to take her child to school at 9:00 a.m. The employee comes to work from 10:00 a.m. to 4:30 p.m. (2 hours less than her regular schedule). On Tuesday, her supervisor allows her to work from 8:00 a.m. to 6:30 p.m. to "flex" the two hours she didn't work on Monday. The employee has flexed the two hours so she doesn't have to take 2 hours of annual leave or receive a paycheck that is only 38 hours for the week.

Example #2: An exempt employee's regular weekly schedule is Monday-Friday, 8:00 a.m. to 4:30 p.m. On Wednesday, the exempt employee leaves work at 12:00 p.m. to go to a personal appointment (4 hours less than his regular schedule). The exempt employee must be paid his full salary for that day. But, he is required to use 4 hours of annual leave. On Thursday, the exempt employee works from 8:00 a.m. to 8:30 p.m. (4 hours more than his regular schedule). Instead of using 4 hours of annual leave, his supervisor allows him to use 4 hours of flex time.

Example #3: A non-exempt employee's regular weekly schedule is Monday-Friday, 8:00 a.m. to 4:30 p.m. (40 hours a week; 80 hours in the pay period). On Monday, the employee works his regular 8 hour day and is also required to attend a work-related meeting that evening. The meeting is an additional 3 hours. On Monday, he has worked a total of 11 hours. Tuesday-Friday, he also works his regular 8 hour shift. He has worked a total of 43 hours in a work week. He asks his supervisor if he can "use" those 3 extra hours next week by coming in at 11:00 a.m. next Monday morning. This is not permitted. Flex time cannot exceed 40 hours in the work week. He must receive 3 hours of overtime compensation (refer to HR policy 409 for guidance).

Example #4: An employee has a position that typically is scheduled Monday-Friday, 8:00 a.m. to 4:30 p.m. He is a single parent and needs to pick up his child every day at 4:00 p.m. His supervisor approves him to have an on-going flexible schedule to accommodate this need. His supervisor and him write a written agreement that allows this employee to have a schedule that is Monday-Friday, 7:00 a.m. to 3:30 p.m.

### **JOB SHARING SCHEDULE**

At the discretion of the supervisor and with the approval Human Resource Director, two part-time employees may split what would ordinarily be a single full-time position. Employees who Job Share shall have a written agreement with their supervisor and place it in the employee's personnel file. Benefit eligibility will be determined by the number of hours worked.

### **WORKING AT HOME SCHEDULE**

Employees may work at home with a signed written agreement with their supervisor stating their expected production of work etc. Employees who are Work from Home shall have a written agreement with their supervisor in advance and place it in the Human Resources employee's personnel file.

### **TRAINING/CONFERENCE SCHEDULES**

Attendance at lectures, meetings, training programs, seminars or similar activities are counted as hours worked when the training is related to the employee's job.

Employees must complete a travel justification form and obtain supervisory approval

prior to attending such programs. Employees must also follow all travel and training policies adopted by LIBC.

### **TRAVEL TIME SCHEDULES**

On occasion, employees may be required to travel for LIBC work-related purposes. Exempt employees are paid their regular weekly salary when traveling for work-related purposes and are not entitled to overtime. The following guidelines should be used when non-exempt employees are required to travel to determine when travel time is considered "work time" and therefore must be paid:

Travel time considered work time includes:

1. Participating in any work-related activities at a meeting, conference, seminar, or other similar event.
2. Participating in social activities where attendance is required by your supervisor.
3. Traveling out of town for work-related activities, regardless of the day/time (this includes any time spend driving, flying, riding, or using any other mode of travel to attend such work-related activity).
4. Traveling between work locations during the workday.
5. Traveling from the employee's home or office to a local airport, bus depot, or train station, or vice versa, to attend a work-related activity.

Travel time not considered work time includes:

1. Participating in social activities where attendance is not required by your supervisor.
2. Sleeping.
3. Non-work related meal breaks.
4. Personal time before a meeting, conference or seminar begins for the day and personal time after a meeting, conference or seminar concludes for the day.
5. Traveling from home to an in-town conference. However, mileage may be reimbursable.
6. Traveling from home to a regular designated work location or vice versa.

Examples:

**One Day Work Assignment Outside Lummi Reservation:** A non-exempt employee with regular working hours from 8:00 a.m. to 4:30 p.m. is given a special assignment to be in Seattle at 10:00 a.m. for a meeting. The employee leaves home at 7:30 a.m. and drives to Seattle. The meeting concludes at 4:00 p.m. and after eating dinner, the staff member leaves to return to his or her home on the Lummi Reservation, arriving at 7:30 p.m.



The travel time in this case is counted as time worked. The employee would be paid as follows:

1. Normal working hours of 8:00 a.m. to 4:30 p.m.
2. Travel time of 7:30 a.m. to 8:00 a.m.
3. Travel time of 4:30 p.m. to 7:30 p.m.
4. MINUS any time for meals (which are unpaid).

**Travel Away from the Lummi Reservation Overnight:** A non-exempt employee with regular working hours from 8:00 a.m. to 4:30 p.m. is given a special assignment to be in Spokane for two days to attend a meeting on a Monday and Tuesday. The employee leaves home on Sunday at 8:00 a.m. and drives 3 hours, stops, and takes a 1 hour lunch before driving again. The employee then drives another 3 hours and arrives in Spokane at 3:00 p.m. The employee checks into her hotel and has the rest of the evening to use as personal time. On Monday and Tuesday, she attends a meeting from 8:00 a.m. to 4:30 p.m. which included a working lunch. She then has personal time the rest of the evening. On Wednesday, she leaves Spokane at 8:00 a.m. and drives 3 hours, stops, and takes a 1 hour lunch before driving again. The employee then drives another 3 hours and arrives at her home on the Lummi Reservation at 3:00 p.m.

The travel time in this case is counted as time worked as follows:

5. Sunday – She is paid for time worked from 8:00 a.m. to 3:00 p.m. MINUS the hour she used for meal breaks.
6. Monday – She is paid for time worked from 8:00 a.m. to 4:30 p.m. including lunch.
7. Tuesday – She is paid for time worked from 8:00 a.m. to 4:30 p.m. including lunch.
8. Wednesday – She is paid for time worked 8:00 a.m. to 3:00 p.m. MINUS the hour she used for meal breaks.

### **Calculating and Reporting Travel Time**

Employees are responsible for accurately tracking, calculating and reporting travel time on their time cards in accordance with this policy.

Meal periods shall be deducted from all travel time.

If an employee requests a specific travel itinerary or mode that is different from the one authorized by the supervisor, only the estimated travel time associated with the authorized schedule, route and mode of transportation should be reported on the time card.

Travel time will be paid at the non-exempt employee's regular hourly rate, will be factored into overtime calculations, and should be recorded on the employee's time card as hours worked.

Normal travel from home to work before the regular work day begins, and from work to home after the work day is over, is not time worked and is not eligible for compensation.

## 402 Timekeeping

Effective Date: 12/01/2015

Accurately recording time worked is the responsibility of every employee (exempt and non-exempt). Time worked is all the time actually spent on the job performing assigned duties. It is the employees' responsibility to sign their time records to certify the accuracy of all time recorded. The supervisor will review and sign the time record before submitting it for payroll processing. It is the supervisor's responsibility to verify and electronically or physically sign the timesheets verifying their accuracy and authorizing payment for the hours worked.

If corrections or modifications need to be made to an employee's time card, both the employee and the supervisor must verify the accuracy of the changes by initialing the corrected time card. However, when corrections or modifications are necessary due to altering, falsifying or tampering with time records or electronically or physically recording time for another employee, the supervisor may submit a written request to Accounting to correct the time record without the employee's verification.

Any employee, who alters, falsifies, tampers with time records, or electronically or physically records time for another employee, will be subject to corrective disciplinary action up to and including termination.

**NON-EXEMPT EMPLOYEES.** Non-exempt employees are required to complete timecards (electronically or physically) reporting the actual number of hours worked during the pay period and to indicate the usage of accrued sick and annual leave time. Non-exempt employees must accurately record the time they begin and end their shift. They must also record the beginning and ending time of any split shift or departure from work for personal reasons.

Non-exempt employees may also be required to electronically clock in at the start of each work day and clock out at the end of each work day, and clock out during unpaid lunch breaks, or other unpaid leave during the work day. Non-exempt employees should report to work no more than fifteen (15) minutes prior to their scheduled start time and shall depart from work no more than fifteen (15) minutes after their scheduled shift ends. Exceptions may be made with their supervisor's pre-approval.

Non-Exempt employees may work overtime in accordance with Policy 409 of this Manual.

**EXEMPT EMPLOYEES.** Exempt employees are paid on a salary basis and are required to complete timecards (electronically or physically) for payroll purposes and to indicate the usage of accrued sick and annual leave time. Exempt employees may be required to electronically clock in at the start of each work day and clock out at the end of each work day for purposes of administratively generating a timecard and recording the use of accrued sick and annual leave time only and not for purposes of payment for hours worked.

## **403 Paydays**

Effective Date: 08/01/00

All employees are paid biweekly on every other Thursday. Each paycheck will include earnings for all work performed through the end of the previous payroll period.

In the event that a regularly scheduled payday falls on a day off such as a holiday, employees will receive pay on the last scheduled day of work before the regularly scheduled payday.

If a regular payday falls during an employee's annual leave, the employee may receive his or her earned wages before departing for annual leave if a written request is submitted at least one week prior to departing for annual leave.

Employees may have pay directly deposited into their bank or credit union account if they provide advance written authorization to LIBC. Employees will receive an itemized statement of wages and deductions each payroll period whether they are paid by check or through direct deposit.

## **404 Severance Pay**

Effective Date: 02/24/2009

LIBC will provide severance pay only to regular full and part-time (working 21 hours per week or more) employees who are terminated or laid off due to a mandated reduction in force or budget cutbacks or employees whose employment is terminated through the challenge process detailed in §203. Severance pay is available only for the reasons noted above.

Employees shall not be eligible for severance pay if they are Temporary Employees or were discharged for disciplinary reasons.

The amount of severance shall be equal to two weeks of regular pay.

The gross amount of severance paid shall be subject to the usual deductions for taxes and debts that may be owed to the LIBC. Other employee directed deductions shall not be included in this severance pay process. Additionally, distribution of severance pay shall be conditioned on the return of all property belonging to the LIBC.

Politically appointed regular full or part-time employees will receive the same severance pay as regular LIBC employees.

Severance pay for members of the LIBC being paid for their duties shall be at the sole discretion of the LIBC based on their own approved schedule.

## **405 Pay Advances**

Effective Date: 08/01/00

LIBC does not provide pay advances on unearned wages to employees.

## **406 Administrative Pay Corrections**

Effective Date: 08/01/00

LIBC takes all reasonable steps to ensure that employees receive the correct amount of pay in each paycheck and that employees are paid promptly on the scheduled payday.

In the unlikely event that there is an error in the amount of pay, the employee should promptly bring the discrepancy to the attention of the Payroll Office so that corrections can be made as quickly as possible.

## **407 Pay Deductions**

Effective Date: 08/01/00

LIBC will make certain deductions from every employee's compensation. Among these are applicable federal income taxes and tribal payroll taxes. LIBC also must deduct Social Security taxes on each employee's earnings up to a specified limit that is called the Social Security "wage base." LIBC matches the amount of Social Security taxes paid by each employee. The exception to the deductions mentioned above are the Treaty Fishing Rights Related Employees. These employees have deductions made and sent to a plan, which has been established for them for life insurance, and retirement.

LIBC offers programs and eligible employees may voluntarily authorize deductions from their paychecks to cover the costs of participation in these programs (water/sewer, fitness center, scholarships, etc).

If you have questions concerning why deductions were made from your paycheck or how they were calculated, your supervisor or the Payroll Office can assist in having your questions answered.



## **408 Commissions, Committees and Boards**

Effective Date: 08/01/00

Employees who wish to participate in a Commission, Committee or Board which are job related or unrelated must first obtain written approval from their supervisor if meetings or tasks will need to be carried out during working hours. It may be necessary for employees to miss meetings or tasks during working hours due to departmental needs. Job responsibilities always come first and foremost. Employees must continue to perform their assigned position duties first. Failure to do so or if their supervisor notices a drop in their performance, their supervisor should begin the disciplinary process and they may be asked to resign their position on the commission, committee, board.

Employees who participate in unrelated-job meetings (boards, committees, commissions etc.) must first seek the approval of their supervisor for the time to be missed and must check/clock out while attending meetings during working hours.

Employees who want to participate in tribal or job related boards, committees or commission meeting must first seek the approval of their supervisor for the time missed from their normal work responsibilities.

Employees who are paid by the board, committee or commission for their participation (meetings, assigned tasks, etc.) must clock/check out prior to attending the meeting or completing their assigned task.

Employees who are not paid for participating in tribal or job related board, commissions, committee meetings or other activities and who have obtained their supervisor's approval for attendance are not required to check/clock out during their participation, although participation during normal working hours shall be kept to a minimum.

## 409 Overtime Compensation

Effective Date: 12/1/2015

When operating requirements or other needs cannot be met during regular working hours, employees may be scheduled to work overtime hours. All overtime work must be authorized; non-exempt employees are not allowed to work overtime without prior approval of the employee's supervisor and director. When possible, advance notification of mandatory overtime assignments will be provided to employees. When overtime assignments are necessary, supervisors and directors should distribute overtime assignments as equitably as practical to all employees qualified to perform the required work, except that exempt employee qualified to perform the overtime assignment should be assigning the overtime work over qualified non-exempt employees. Employees assigned overtime are expected to perform as they would normally perform their duties.

All non-exempt employees who work in excess of 40 hours in a work week shall receive overtime compensation in accordance with this policy.

Exempt employees are not entitled to earn compensatory time off or overtime compensation for any hours worked over 40 hours in a work week. There is no legal requirement or obligation to pay exempt employees overtime pay or grant compensatory time off. A supervisor may choose to grant flex time (on an hour-for-hour basis) to exempt employees who are required to work in excess of 40 hours per week for special projects or during weekends or any normally scheduled time off.

The supervisor or director of each department will determine how a non-exempt employee shall be compensated for overtime work. The supervisor or director has two overtime compensation options (in priority order): (1) Compensatory Time Off or (2). Overtime Pay Management should consider existing workloads, staffing requirements, and impacts to budget in deciding which compensation option will be used. Non-exempt employees may request a preference for either of the compensation options, but the final decision is up to the department supervisor or director.

Failure to work scheduled overtime or overtime worked without prior authorization from the supervisor may result in corrective action, up to and including possible termination of employment.

### **OPTION #1: COMPENSATORY TIME OFF (i.e. "Comp Time")**

When management decides that overtime pay is not possible due to budgetary constraints and/or operational needs of the department, the supervisor or director may authorize compensatory time off in lieu of overtime pay.

Non-exempt employees shall earn compensatory time off equal to one-and-one-half times the amount of time worked in excess of 40 hours in a work week.

**Example:** A non-exempt employee works his regular 40 hour work week at a rate of \$20 per hour. His supervisor also assigns him 10 hours of overtime work in the same week.

He has worked a total of 50 hours in one work week. He will be paid \$800 as regular compensation for the regular 40 hour work week (\$20 x 40 hours). He will accrue 15 hours of compensatory time off (10 overtime hours worked x 1.5).

When an employee plans to take compensatory time off, such compensatory time off must be scheduled in advance and approved by the supervisor. Every effort should be made to accommodate the preference of the employee when scheduling compensatory time off unless the requested compensatory time off will unduly disrupt the department's operations. Compensatory time off may be used for any purpose. However, with the exception of Holidays (Policy 302), Military Leave (Policy 306) and Bereavement Leave (Policy 308), accrued compensatory time off must be used prior to the use of any other leave including, but not limited to, annual leave, sick leave, and leave without pay.

The maximum amount of compensatory time off an employee may carry at any time is 90 hours (60 hours of work x 1.5) pro-rated for part-time employees. Any overtime in excess of the 90 hour maximum cannot be considered compensatory time off; instead, the overtime must be paid in the employee's next paycheck.

Compensatory time off must be taken within 12 months from the date on which it was accrued. If management is not able to schedule the compensatory time off within this time period, it must be paid as overtime to the employee no later than in the next pay check following the end of the 12 months.

Compensatory time off can be scheduled at the request of the employee and should not be denied by the supervisor unless the time off will "unduly disrupt" the department's operations. Supervisors can also require an employee to take compensatory time off to manage the accrual limitation.

Supervisors are expected to monitor their non-exempt employees hours of accrued compensatory time off and make all efforts to assure that employees do not exceed 90 hours of accrued compensatory time off. Such efforts shall include reducing the number of overtime hours assigned to that employee and requiring scheduled compensatory time off. Failure to do so may result in disciplinary action, up to and including possible termination of employment.

When a non-exempt employee transfers to another position within LIBC, or his or her status changes from "non-exempt" to "exempt," such employee must be paid for all accumulated and unused compensatory time off at the time of the status change. In lieu of payment, the existing supervisor can require the employee to use compensatory time off prior to accepting the new position or status change. Compensatory time off cannot be transferred from department to department unless the GM and CFO approve.

Non-exempt employees who separate employment with LIBC shall be paid for all accrued and unpaid hours of compensatory time off.

## **OPTION #2: OVERTIME PAY**

Overtime pay is cash compensation paid to nonexempt employees at a rate of one and one-half times their regular rates of pay for the overtime hours. Overtime pay is based on actual hours worked and will be paid in the non-exempt employee's next paycheck. Time off on holidays, annual or sick leave, or any leave of absence will not be considered hours worked for purposes of performing overtime calculations.

**Example:** A non-exempt employee earns \$20 per hour. In one work week, the employee works his regular 40 hour work week. His supervisor also assigns him 10 hours of overtime work in the same week. He has worked a total of 50 hours in one work week. He is paid \$800 for the first 40 hours worked ( $\$20 \times 40$  hours) and he is paid \$300 for the 10 overtime hours worked ( $\$30 \times 10$  hours) for a total of \$1,100.

## **410 Attendance and Punctuality**

Effective Date: 12/1/2015

All employees (exempt and non-exempt) must report to work on the days and times listed in their regular work week schedule issued by their supervisor pursuant to Policy 401 of this Manual. To maintain a safe and productive work environment, LIBC expects all employees to be reliable and punctual in reporting for their regularly scheduled work week. Absenteeism and tardiness are disruptive and place a burden on other employees and on LIBC.

In the rare instances when employees cannot avoid being late to work or are unable to work as scheduled, they should notify their supervisor as soon as possible in advance of the anticipated tardiness or absence. Departments may develop their own notification protocol depending on their departmental needs. The protocol will need to be in writing and provided to each department employee as well as the Human Resources department. Employees holding critical positions such as in Law Enforcement or Education are encouraged to provide at least one (1) hour prior notice. Employees who are unable to report to work due to illness or injury should notify their direct supervisor before the scheduled start of their workday or within 15 minutes of their scheduled start time. Contact your department director for specific departmental instructions.

Employees who clock in after their regular start time will be considered tardy. Employees should not clock in more than 15 minutes prior to their scheduled start time.

Poor attendance and/or excessive tardiness by any exempt or non-exempt employee may lead to corrective action, up to and including termination of employment.

Non-exempt employees will only be paid for the time they actually spent performing job duties.

An employee's failure to report to work (no call/no show) for three (3) consecutive days will be interpreted as an employee's resignation pursuant to Policy 503 of this Manual

## **411 Emergency Closings**

Effective Date: 08/01/00

At times, emergencies such as severe weather, floods, fires, power failures, or earthquakes, can disrupt company operations. In extreme cases, these circumstances may require the closing of a work facility. In the event that such an emergency occurs during nonworking hours, an employee can call one or more of the following to determine a course of action.

- \* LIBC emergency information hot line 384-2365
- \* LIBC main switchboard 384-1489
- \* Supervisor or supervisor voice mail message
- \* Radio station (KGMI 790 and KPUG)

When operations are officially closed due to emergency conditions, the time off from scheduled work will be paid.

In cases of bad weather and road conditions employees requiring additional travel time to work should immediately contact their supervisor and inform them of the additional time they will need to arrive at work safely. This time shall normally not exceed two (2) hours. Any time beyond two (2) hours must be charged to the employee's annual leave.

In cases where an emergency closing is not authorized, employees who fail to report for work will not be paid for the time off. Employees may request use of their annual leave hours.

Employees in essential operations may be asked to work on a day when operations are officially closed. In these circumstances, employees who work will receive regular pay.

## **412 Education Assistance**

Effective Date: 08/01/00

LIBC recognizes that the skills and knowledge of its employees are critical to the success of the organization. The educational assistance program encourages personal development through formal education so employees can maintain and improve job-related skills or enhance their ability to compete for reasonably attainable jobs within LIBC.

LIBC may provide educational assistance to all eligible employees who have completed 90 calendar days of services in an eligible employment classification. To maintain eligibility employees must remain on the active payroll and be performing their job satisfactorily through completion of each course. Employees in the following employee classification(s) are eligible for educational assistance:

- \* Regular full-time employees
- \* Regular part-time employees ( working 21 or more hours per week)

Individual courses or courses that are part of a degree, licensing, or certification program must be related to the employee's current job duties or a foreseeable-future position in the organization in order to be eligible for educational assistance. L.I.B.C. has the sole discretion whether a course relates to an employee's current job duties or a foreseeable-future position. Employees should contact the Human Resources Director for more information on education assistance.

While educational assistance is expected to enhance an employee's performance and professional abilities, LIBC cannot guarantee that participation in formal education will entitle the employee to automatic advancement, a different job assignment, or pay increases.

LIBC invests in educational assistance to employees with the expectation that the investment be returned through enhanced job performance. However, if an employee voluntarily separates from LIBC's employment within the current quarter they will be responsible for reimbursing LIBC for the quarter's expenses. Tuition/books will be deducted from the employee's final paycheck.

## **501 Employee Conduct and Work Rules**

Effective Date: 08/01/00

To ensure orderly operations and provide the best possible work environment, LIBC expects employees to follow rules of conduct that will protect the interests and safety of all employees and the organization.

It is not possible to list all the forms of behavior that are considered unacceptable in the workplace. The following are not all inclusive but are shown as examples of infractions of rules of conduct that may result in disciplinary action, up to and including immediate termination of employment:

- \* Theft or inappropriate use, removal or possession of LIBC property
- \* Falsification of timekeeping records
- \* Working under the influence of alcohol or illegal drugs
- \* Possession, distribution, sale, transfer, or use of alcohol or illegal drugs in the workplace, while on duty, or while operating employer-owned vehicles or equipment.
- \* Fighting or threatening violence in the workplace
- \* Boisterous or disruptive activity in the workplace
- \* Negligence or improper conduct leading to damage of employer-owned or customer-owned property
- \* Insubordination or other disrespectful conduct
- \* Violation of safety or health rules
- \* Sexual or other unlawful or unwelcome acts or words.
- \* Possession of dangerous or unauthorized materials, such as explosives or firearms, in the workplace
- \* Excessive absenteeism or any absence without notice
- \* Unauthorized use of telephones, mail system, or other employer-owned equipment
- \* Unauthorized disclosure of business "secrets" or confidential information
- \* Violation of personnel policies
- \* Unsatisfactory performance
- \* Criminal Behavior
- \* Gross Misconduct
- \* Neglect of Duties
- \* Good Cause
- \* Failure to follow the appropriate "Chain of the Command"



## 502 Employment Separation

Effective Date: 07/26/2011

Separation of employment is an inevitable part of personnel activity within any organization, and many of the reasons for separation are routine. Below are examples of the most common circumstances under which employment is terminated:

CODE	REASON
1	Resignation – Notice given
2	Resignation – No notice given
3	Released (assignment/contract ended)
4	Relieved (within orientation period)
5	Ineligible for employment based on HR Screening
6	Laid off – Budget reason
7	Laid off – Reorganization
8	Laid off – Position challenged
9	Retired
10	Deceased
11	Terminated for Cause – Corrective Action
12	Terminated for Gross Misconduct
13	Ill Health (voluntary)
14	Other (must specify)

The employee's immediate supervisor must contact the Human Resources Director prior to separating an employee. Failure of a supervisor to contact the Human Resources Director may result in disciplinary action.

Employees may be terminated during their orientation period if it is determined that they are unable to complete their duties and/or if they are not a good fit for the position.

The supervisor or employee may request an exit interview, if an interview is requested it will be conducted and scheduled by the Human Resources department. The exit interview will afford an opportunity to discuss such issues as employee benefits, conversion privileges, repayment of outstanding debts to LIBC, or return of LIBC-owned property. The exiting employee can also voice suggestions, complaints and questions.

Employees who have been issued any LIBC equipment/keys will be required to turn them over to the immediate supervisor prior to being issued their last paycheck. Failure to turn in equipment/keys/documents etc. will result in the items replacement costs being deducted from the final paycheck. The LIBC payroll office will verify any deductions that may need to be taken out of the employee's final paycheck.

Employee benefits will be affected by employment termination in the following manner. All annual leave hours, that are due and payable at separation will be paid at the next regular payday. Sick leave may not be cashed-out. Medical/Dental/Vision benefits may be continued at the employee's expense if the employee chooses COBRA. The Human Resources Department

will notify former employees of the benefits that may be continued and of the terms, conditions, and limitations of such a continuance.

Employees who have been laid off of work may be afforded re-employment rights to the same position. Re-employment rights shall mean that if a position with the same job description in the same department is available within the immediate six (6) months of the lay off the employee may be rehired outside of the normal Human Resources process and shall be given their previous hire date and job status.

Employees who have been laid off of work may be allowed to keep their date of hire if they are able to find another position within the immediate six (6) months.

Once the employee's separation is fully processed, no other documents may be placed in the employee's personnel file, unless it pertains to legal or court documents that were incomplete or unavailable at the time of separation. In the event that documents get placed in the personnel file after the separation the Human Resources department will attempt to provide the employee a copy of the document(s).

## **503 Resignation**

Effective Date: 08/01/00

Resignation is a voluntary act initiated by the employee to terminate employment with LIBC. LIBC requests at least 2 weeks written notice of resignation from nonexempt employees and 4 weeks' notice from exempt employees. Failure to provide proper notice may result in the employee not receiving their accrued annual leave hours and only being paid through the last day they actually worked, unless other arrangements are made with the employee's immediate supervisor and approved by the appropriate executive director, CEO and the Human Resources Director.

Prior to an employee's departure, an exit interview will be scheduled to discuss the reasons for resignation and the effect of the resignation on benefits.

An employee who fails to call or show up for work for three (3) consecutive days will be interpreted as an employee resignation.

## **504 Corrective Disciplinary Action**

Effective Date: 03/17/2008

The purpose of the Corrective Disciplinary Action policy is to administer equitable, fair and consistent corrective measures in response to unsatisfactory conduct or performance in the workplace. The purpose of a corrective disciplinary action is to address the problem, prevent recurrence, and prepare the employee for satisfactory conduct or performance. Use of formal corrective disciplinary action can be avoided through good leadership and fair supervision at all employment levels.

In most instances, corrective disciplinary action will be handled through progressive steps. A first offense may result in a verbal warning, a next offense may be followed by a written reprimand, and yet another offense may lead to a suspension or termination. If more than 18 months passes between corrective disciplinary actions against an employee, the supervisor shall restart the steps of progressive discipline. The LIBC recognizes that there are certain instances of employee misconduct serious enough to justify either immediate suspension (either with or without pay) or, in extreme situations, termination. While it is impossible to list every type of behavior or action warranting immediate suspension or termination, §501 (Employee Conduct and Work Rules) provides examples of behaviors and actions that may result in immediate suspension or termination of employment.

It is the responsibility of supervisors to oversee the actions and performance of subordinate employees and, where necessary, to initiate corrective discipline. For each step of discipline above verbal warning taken under this section, the employee shall receive written notice of the discipline. This notice shall contain an explanation of the reason for the discipline and shall state that it will be placed in the employee's Official Personnel File (OPF) at the HR department. The employee shall be asked to sign the notice, although refusal to sign will not invalidate any action taken.

## **504A Administrative Leave**

Effective Date: 05/05/2009

Employees may be placed on Administrative Leave (either with or without pay) when they are under criminal or administrative investigation for conduct that is related to the nature of their job or the mission of their department and/or when their conduct or other circumstances indicate that their continued presence in the workplace:

- May impair the ability of their department to properly and/or safely conduct business
- May be harmful to the employee, other employees or others present at the employee's worksite.
- May hamper an internal investigation into alleged misconduct by the employee.
- May hamper an investigation being conducted by law enforcement
- May be appropriate in relation to the employer's duties to the public or other employees.

The determination of whether administrative leave will be with or without pay shall be made by the appropriate director in consultation with the Human Resources Director on a case-by-case examination of the circumstances surrounding the employee's placement on administrative leave. If there is reliable documentation (for example, but not limited to police reports, judicial documents or written first hand accounts) that the employee has engaged in conduct that affects their ability or fitness to perform their job duties or carry out the mission of their department, they shall be placed on administrative leave without pay. If the documentation is of a less reliable nature or further investigation is needed the employee shall be placed on administrative leave with pay. Budget and departmental personnel needs may also be considered when determining whether an employee's administrative leave will be with or without pay. Employees shall not be eligible for paid administrative leave while on orientation.

As an alternative to administrative leave, a supervisor may, in consultation with the Human Resources Department, temporarily change an employee's duties to allow the employee to continue working until final resolution of the circumstances resulting in the consideration of administrative leave. Employees who are on administrative leave shall continue to have their health benefits paid for by the LIBC.

## **505 Grievance Process**

Effective Date: 10/23/2012

The grievance procedures contained in this section are available to regular part-time and full-time employees of the LIBC. They are not available to temporary employees or employees who have not completed their initial orientation period. The policy provides an overview of the grievance process. More detailed procedural information is available through Human Resources.

An employee may file a grievance if they received an eligible disciplinary action, which consists of: wrongfully termination, administrative leave without pay or suspension without pay. A grievance regarding administrative leave without pay may only be filed after the employee has either been brought back to work or terminated from employment. An employee will have three working days following their written notice of the disciplinary action to complete and return to Human Resources a Notice of Grievance form (available with Human Resources). Grievances will be heard by a Grievance Review Board (GRB) composed of three participants chosen from three different pools of employees selected by the LIBC. No department may have more than one employee participate on any given GRB.

The three pools of potential GRB members will include one pool of hourly employees, one pool of exempt employees and one pool composed of all LIBC directors. (At will employees, Human Resources Office, the Office of the Reservation Attorney, the Public Defender's Office, and LIBC Council Members who are also employees shall be excluded from participation in the pools.) Each department shall designate one hourly employee and one exempt employee to participate in the pools. Additionally, any employee within the same department as the grievant shall be excluded from participation in the grievance process.

LIBC Human Resources will provide administrative guidance regarding the Grievance policy and procedures.

Throughout the grievance process and in all proceedings before the GRB, the LIBC will provide the grievant with:

1. Adequate notice of all proceedings; and
2. A decision by an independent decision maker; and
3. A statement by the LIBC relating the basis for the disciplinary action; and
4. The right to confront and ask questions of witnesses before the GRB.

### **Role of the Grievance Review Board**

The GRB's sole purpose is to examine the facts surrounding the disciplinary action and determine if it was clearly unsupported and to then make a recommendation to the General Manager. The GRB shall only recommend overturning the supervisor's decision if it is clearly unsupported by the facts. Information not specific to the direct cause for the disciplinary action may be considered but the GRB shall carefully weigh the reliability of such information.

### **Witnesses Before the Grievance Review Board**

The LIBC and the grievant shall both be allowed to present their case to the GRB through their own statements and the presentation of witnesses.

After the hearing of the GRB, they shall have fifteen working days to make a final written recommendation to the General Manager.

### **Role of the General Manager**

The General Manager or equivalent level supervisor shall review the decision of the GRB and the facts supporting the decision and make a final decision regarding the disciplinary action. The General Manager or equivalent level supervisor shall delegate their authority if they believe they cannot make an unbiased decision or they have been involved in the disciplinary action which is being grieved. If the General Manager or the equivalent level supervisor disagrees with the decision of the GRB, they shall meet to discuss the matter. Within fifteen working days following the GRB's written recommendation, the General Manager shall issue a final written decision to all involved parties. This time frame may be extended due to unforeseen circumstances. Written notice of any time extension shall be provided to the grievant. There shall be no appeal, either administrative or judicial, from this decision. Written decisions resulting from the grievance process shall not create binding precedent for future grievances.

If the General Manager is the direct supervisor of the grievant, the role of the General Manager shall be filled by the Human Resources Director.

### **Allegations of Criminal Conduct or Sexual Harassment**

For disciplinary actions based on allegations of criminal conduct or sexual harassment the General Manager or equivalent level supervisor (or their delegate) shall sit in the place of the GRB and their decision shall be final.

## **601 Safety**

Effective Date: 03/15/2011

To assist in providing a safe and healthful work environment for employees, customers, and visitors, LIBC has established a workplace safety program.

LIBC provides information to employees about workplace safety and health issues through regular internal communication channels such as supervisor-employee meetings, bulletin board postings, memos, or other written communications.

Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must immediately report any unsafe condition to his/her supervisor and the Safety Officer. Employees who violate safety standards, who cause hazardous or dangerous situations, or who fail to report an industrial injury, may be subject to disciplinary action up to and including termination of employment.

All injuries, regardless of how insignificant the injury may appear, employees shall immediately notify his/her supervisor and the Safety Officer. For specific procedures pertaining to this policy employees should refer to the Safety Manual located on the LIBC Intranet.



## **602 Smoking**

Effective Date: 03/15/2011

In keeping with LIBC's goal to provide a safe and healthful work environment, smoking in the workplace is prohibited except in those out-of-door locations that have been specifically designed as smoking areas. Smoking areas must be a minimum of 25 feet from any public entry or exit of a building. Smoking areas must have a designated disposal area and must be kept clean by the users. In situations where the preferences of smoker and non-smokers are in direct conflict, the preference of non-smokers will prevail. Directors may designate smoking areas around their specific building, using guidelines listed above.

Smokers must only utilize the approved break times outlined in Section 401 of this manual. Smokers are encouraged to cover their work attire while smoking to lessen the impact on clients and other employees.

It is prohibited to smoke in a tribally owned/operated vehicle. This policy applies equally to all employees and visitors.

## **603 Drug and Alcohol Use**

**(LIBC Drug and Alcohol Free Workplace Policy Resolution 2000-088)**

Effective Date: 05/05/2009

# **Lummi Indian Business Council Drug-Free Workplace Policy**

## **1. Purpose**

The Lummi Indian Business Council (LIBC) provides a variety of governmental and community services. The employees of the LIBC are its most valuable resource, since it is through their work that services are provided. When delivering services, the health and safety of the community and the health and safety of employees are of paramount importance.

The illegal use of drugs and the misuse of alcohol are problems of serious concern to the LIBC and affect all segments of the Lummi community, including the workplace. A recent health survey shows that our youth, the same youth who are starting in the workplace, are three times more likely to drink to excess and to use illegal drugs than the general population. Our adult population is 2.5 times more likely to drink to excess. Approximately 10 percent of the adults surveyed stated that they drove after drinking too much at least once in the past month. Such behavior poses risks to members of the public and to LIBC employees. Employees have the right to work in an alcohol and drug-free environment. Members of the community have the right to be free from the harmful effects of alcohol and drug abuse in the provision of public services.

The Lummi Nation General Council had a series of meetings in 1999 on drugs and alcohol in the community. One of the actions recommended from these meetings was that the LIBC test all employees for use of drugs and alcohol. This policy is, in part, a response to that request.

The Lummi Nation values its employees and the contributions they make to the community. It recognizes, however, that employees can fall victim to drug and alcohol abuse. This policy is an attempt to achieve a drug and alcohol free workplace through drug testing. It also, however, attempts to recognize the need to salvage valuable employees and allow for second chances through "Last Chance Agreements."

- 1.1 The LIBC strives to maintain a safe and efficient workplace free of drugs and alcohol.
- 1.2 LIBC desires to help employees be free from abuse of, and addiction to, alcohol and drugs. In this spirit, the LIBC will offer rehabilitation and treatment options to employees through referral sources.
- 1.3 The federal Drug-Free Workplace Act holds employers receiving federal grants or contracts of \$25,000 or more, responsible for certifying that they maintain a drug-free workplace. This policy is intended to comply with the requirements of the law.

## **2. Scope**

This policy applies to all full and part time LIBC employees and volunteers. This policy also applies to all individuals selected for hire by the LIBC or by a tribally owned enterprise unless the enterprises have adopted their own personnel policies.

2.1 Employee work areas and LIBC-issued equipment, containers and vehicles under employee's control are subject to search and surveillance at all times while on the Lummi Reservation or while conducting LIBC business off-reservation. Private vehicles used for LIBC business shall only be subject to search and surveillance while being used for such business.

## **3. Prohibited Behaviors**

The violation of any of the following policies may lead to disciplinary action up to, and including termination.

- 3.1 The use of, or being under the influence of alcohol during working hours is prohibited.
- 3.2 The use, purchase, possession or transfer of illegal drugs, or having illegal drugs on the LIBC premises, work sites or vehicles is prohibited.
- 3.3 The manufacture or sale of illegal drugs. If it is discovered that an employee covered by this policy is in possession of illegal drugs or is involved in the manufacture or sale of illegal drugs, appropriate law enforcement authorities will be notified.
- 3.4 While representing the Lummi Nation, employees under the influence of drugs or alcohol who engage in behavior reflecting poorly on the LIBC may be subject to disciplinary action. (This section is not to be interpreted as in any manner allowing the use of illegal drugs. The use of illegal drugs is, regardless of whether it leads to behavior reflecting poorly on the LIBC, a violation of these policies that shall be grounds for disciplinary action.)
- 3.5 The off-work hour use of alcohol is prohibited when such activities adversely affect job performance or job safety.

Taking or using lawful prescriptions consistent with standard dosage recommendations is not prohibited behavior, but employees taking prescribed drugs which can cause drowsiness or have other behavioral side effects must inform their supervisor when they begin and when they stop taking such medication. Violations may lead to disciplinary action.

### **3.6 Employees Arrested for Drug Related Offenses**

Regular Employees who are arrested for drug related offenses shall be subject to the following policies and conditions of employment.

3.61 Employees who are arrested for drug related offenses shall submit to a for cause drug test administered under the procedures contained within this policy.

3.62 Employees who are arrested for drug related offenses and who are in background check category 3, 4, 5 or 6 (Public Trust, High Public Trust, Working with Indian Children, Law Enforcement) shall, at the discretion of the supervisor, either be placed on administrative leave or reassigned to a position with "non-sensitive" duties at the same rate of pay. If the employee is placed on administrative leave, the determination of whether the leave is with or without pay will be made on a case by case basis depending on the circumstances surrounding the arrest. The administrative leave or reassignment shall continue until a judicial resolution of the drug charges is reached.

3.63 Employees who are charged with a drug related offense and do not work in "sensitive areas" shall be allowed to continue in their positions while their criminal matter is pending if they submit to a drug test and enter into a Last Chance Agreement. If an employee refuses to enter into a Last Chance Agreement they will be placed on administrative leave without pay. A final determination regarding the employee's status will be made based on the outcome of criminal charges.

#### **4. Drug and Alcohol Testing**

Drug/alcohol testing will be conducted with accuracy and reliability. The LIBC upholds a high regard for privacy and dignity in specimen collection, testing and the notification process.

4.1 Employees found with the presence of a covered substance in the body, alcohol at a detectable level of 0.02 BAC or greater or a confirmed positive drug urine test, without adequate medical explanation, will be regarded to have violated the provisions of this policy.

4.2 For the purposes of this policy, an employee who tests positive for illegal drugs shall be considered under the influence. An employee who tests 0.02 – 0.039 BAC for alcohol is not fit for duty and should be transported safely home and placed on leave without pay. An employee test of 0.04 BAC or greater for alcohol is considered a "positive" test and considered under the influence. The disciplinary consequences of being "unfit for duty" shall be determined on a case by case basis and may be as serious as immediate termination.

4.3 Job applicants must successfully pass an initial employment drug screen and will be so notified. Testing will be requested for the final applicants considered for the job offer during the last stage of the application process. Applicants who fail the drug screen can, at their own expense, complete a confirmation drug test at an approved testing facility. All confirmation tests must be performed with a sample taken contemporaneously with the original test sample. Additionally, if an applicant fails a drug test, and they are not applying for a "safety sensitive" position, they will be eligible for hire if they provide proof that they are participating in a drug and/or alcohol recovery program and have been in compliance with the program for a minimum of 12 weeks. Failure to take or to pass the test means withdrawal from the employment application process. Job applicants who fail a pre-employment drug test will not be eligible for hire nor will they be eligible for a Last Chance Agreement. Job applicants not be hired due to a

positive drug test may not reapply for employment for three (3) months, and only after the applicant has completed a drug and alcohol assessment.

4.4 All employees covered by this policy shall submit to a drug and/or alcohol test following any on-the-job injury requiring an injury report or following an on-the-job vehicle accident when the supervisor or the law enforcement on the scene of the accident reasonably believes the employee caused or contributed to the injury or accident.

4.5 Whenever a supervisor reasonably believes an employee shows obvious signs of being unfit for duty (for cause) or has documented patterns of unusual or unsafe work behavior (reasonable suspicion), the supervisor(s) shall consult with an LIBC Human Resources Representative to determine whether the employee should be referred for alcohol and drug evaluation and/or tested for drugs and alcohol.

4.6 All employees are subject to random drug and/or alcohol testing. Unannounced testing is required at least annually for bus drivers, employees of the Tribal Gaming Agency, CHR drivers, youth transporters, police officers, heavy equipment operators, staff working with children or elders, chemical dependency counselors, those working with cash (or cash equivalents, those who require bonding and those having direct access to drugs or pharmaceuticals in their workplace..

4.7 As soon as practicable after receipt of a verified positive test result from the testing laboratory, a Human Resources Representative will attempt to inform the employee of the positive test results, the consequences of the test results, and the options available to the employee. A copy of the test result will be furnished to the employee upon request. The employee's supervisor will also be notified of the result.

4.8 Employees who have a positive drug test will be immediately placed on administrative leave without pay if they are eligible for a "Last Chance Agreement." If they are not eligible for a "last chance agreement," they will be immediately terminated. Employees may use annual or sick leave in place of leave without pay.

4.9 Refusal to submit to a drug and/or alcohol test required under this policy will result in immediate termination.

4.10 The drug and alcohol test under this policy is a urinalysis, an oral strip test, or a breathalyzer test or any other medically accepted test for detecting drugs and/or alcohol administered under approved conditions and procedures for the sole purpose of detecting drugs and alcohol. The test will be conducted by trained LIBC personnel or a certified facility, approved by and paid for by LIBC.

**At a minimum, the Lummi Nation drug tests shall test for the following substances:**

- Amphetamines (meth, speed, crank, ecstasy)
- THC (cannabinoids, marijuana, hash)
- Cocaine (coke, crack)

- Opiates (heroin, opium, codeine, morphine)
- Phencyclidine (PCP, angel dust)
- Barbiturates (phenobarbital, butalbital, secobarbital, downers)
- Benzodiazepines (tranquilizers like Valium, Librium, Xanax)
- Methaqualone (Quaaludes)
- Methadone (often used to treat heroin addiction)
- Propoxyphene (Darvon compounds)

## **5. Testing Procedures/Administration**

5.1 Designation of Testing Facilities. A Human Resources Representative shall designate certified testing facilities, collection sites, and laboratories to be used by the LIBC in administering all testing for LIBC employees. The Human Resources Representative shall work with these facilities to develop a testing protocol and to ensure that all testing procedures comply with the requirements of this policy.

5.2 Alcohol/Drug Officers. LIBC Directors and Human Resources staff will be designated alcohol/drug officer(s) (ADOs). ADOs shall be fully trained in the detection of alcohol/drug use and the LIBC Drug Policy. ADOs will preside over, and manage to completion, any situation where testing may be required. All employees who have witnessed an on-the-job injury or situation in which they believe alcohol or drugs may be involved shall report that situation to the ADO with in their department or to Human Resources.

5.3 Alcohol/Drug Officers Responsibility. It is the responsibility of LIBC Human Resources Department to provide notice of procedures and possible consequences to employee(s), obtain employee consent to testing, arrange for testing and transportation to the collection site or testing facility, give notice of right to further testing at employee expense, give notice of any pending disciplinary action, and document any refusals to test. Throughout the process, the Human Resources Department must ensure that employee confidentiality is maintained.

5.4 Employee Consent. No alcohol test may be administered, urine sample collected, nor any drug test administered without first giving notification of the right to refuse such testing, the consequences of a refusal, the consequences of a positive result, and then obtaining the written consent of the person being tested. It is the ADO's or Human Resource staff's responsibility to ensure the notice is provided and the employee's consent is obtained prior to testing.

5.5 Cost and Availability of Initial and Subsequent Testing. The LIBC is responsible for funding the testing policy and shall assume the costs for initial employee testing. All samples that initially test positive for the presence of alcohol or drugs, except job applicants, will be automatically subject to confirmation testing procedures. The LIBC shall pay for the costs for employee confirmation testing. Job applicants, at their own expense, can have confirmation testing completed at an approved laboratory.

5.6 At the time of testing, an employee may have a contemporaneous sample drawn and have it independently tested at a facility of the employee's choosing. This testing shall be at

the employees cost. However, the facility must be a certified facility approved by the LIBC. The Human Resources Representative shall establish a list of such approved facilities and shall make that list available at the time of testing.

## 5.7 Testing Procedures.

a. **New Hires:** All job applicants subject to this policy shall be given full notice of testing requirements and procedures and the consequences of refusal or a positive result. Those persons shall then be given a place, date and time at which to appear, by the use of their own transportation, for the purposes of sample collection. All persons shall be required to present photo identification before a sample can be taken. In cases when an applicant for employment does not reside within Whatcom County, another certified test collection site, convenient to the applicant, shall be located by Human Resources and used at no cost to the applicant.

b. **Job Injury/Reasonable Cause:** Where it is determined that testing must be conducted; the employee to be tested shall be informed by the ADO or Human Resources of the reason for testing and the consequences of refusal or a positive result. Once consent has been obtained in accordance with section 5.4, the employee shall be transported, at LIBC expense, to the testing facility. Under no circumstances shall an employee be permitted to transport him/herself to the testing facility. If an employee refuses to accept transportation such refusal will be construed as refusal to take the test.

(1) **Reasonable Cause.** Reasonable cause for drug and alcohol testing mean facts, circumstances, physical evidence, physical signs and symptoms or a pattern of performance and/or behavior that would cause a supervisor to reasonably conclude an employee may have engaged in on the job drug or alcohol use, or may be under the influence of some drug/substance including alcohol.

(2) Examples of reasonable cause include but are not limited to:

(a) Unsatisfactory work performance, including accidents and incidents, adequately documented, and where some drug related documentation indicates a linkage or a change in an employee's prior patterns of work performance and where some drug or alcohol performance related documentation indicates a linkage.

(b) Physical symptoms consistent with drug or alcohol use.

(c) Evidence of illegal substance use, possession, sale or delivery.

(d) Fights (to mean physical contact) and assaults, erratic or violent behavior, or severe mood swings resulting in angry outbursts.

c. **Random Testing:** On a periodic basis, a Human Resources Representative– will randomly select employees for testing. All selected employees will be informed by Human Resources that they will be required to take a random drug test. The department ADOs will be notified of the names of employees in their area that are required to submit to random testing. Employees on personal time off or travel are excused, but will be included in the next random test cycle. Employees are required to sign a consent form for the test. If they refuse to sign the consent form or to complete the test, they will be referred to the Human Resources Representative to provide the employee their rights and consequences of a refusal.

5.8 Pre-Collection Interviews. Having arrived at the testing collection site and prior to the administration of an alcohol and drug test, an employee is to be interviewed by the testing facility's staff to determine whether he/she has taken any form of medication that may result in a positive test result.

5.9 Sample Collection. The testing/collection facility's staff shall conduct all sample collection. Such personnel shall be trained and shall perform all test/collections in accordance with standard clinical/medical procedures.

5.10 The testing/collection facility shall take all steps necessary to ensure employee privacy and confidentiality. After collection, the sample is to be properly sealed and labeled to reflect the employee's identity as well as the time/date of collection. The sample must be stored in a secure/locked place until it can be transported to the testing laboratory. The time between collection and transportation should be minimized, and the storage area must be climate controlled in order to insure that the sample does not degrade. In the event that it is necessary to handle or take possession of the sample between collection and transportation, a record must be kept of each instance (including the identity of the person who takes such action, the date, time, place, and purpose of such action) in order to insure that the proper chain of custody is maintained. An appropriate carrier to the testing laboratory must then transport the sample. Records must be kept by the testing facilities at all stages of the process.

5.11 All drug testing records held by the LIBC shall be treated as medical information and maintained separately from standard personnel files.

Where, upon first analysis, a sample is determined to be positive for the presence of alcohol or drugs, the laboratory shall automatically subject that sample to confirmation testing. The testing laboratory shall retain all samples confirmed positively for alcohol or drug for at least one year.

5.12 Medical Review Officer. The Medical Review Officer (MRO) is a physician knowledgeable about drugs and alcohol. The MRO will be the sole recipient of positive testing laboratory results. The MRO will verify that the results are reasonable. That review may include:

- a. Review of the information provided by the employee at the collection interview.
- b. Affording the individual employee an opportunity to discuss the test results with the MRO.
- c. Requesting, as needed and after patient authorization, medical records to verify information obtained.
- d. Determining whether there is a legitimate medical explanation for the results, including legally prescribed medication.

5.13 Notification.



- a. The MRO will report each test result (after review) exclusively to a Human Resources Representative. The names of LIBC contacts will be on file with the MRO.
- b. The MRO may release the results to a party other than the LIBC Human Resources Representative only when the employee tested signs an authorization for the release to an identified person.
- c. A Human Resources Representative shall notify all employees with positive test results of their rights and responsibilities immediately upon their availability of the test.

## **6. Last Chance Agreement**

6.0 Regular Employees with a positive verified drug and/or alcohol test will not be dismissed solely because they have had a positive test. However, a positive test, in combination with other circumstances, may lead to discipline, including termination.

6.1 Ordinarily, an employee with a positive test will be allowed to retain employment by signing a "Last Chance Agreement" and being referred to a drug and alcohol program. The "Last Chance Agreement" is attached. By signing this Agreement, the employee agrees to all of its requirements. Failure to sign or to adhere to the requirements of the Agreement will result in immediate termination.

6.2 Certain safety- and security-sensitive positions are not eligible for "Last Chance Agreements." These positions include police officers, bus drivers, CHR drivers, youth transporters, heavy equipment operators, child care staff, elder care workers, chemical dependency counselors, construction workers, those who handle money or requiring bonding, and those having direct access to drugs or pharmaceuticals in their workplace and the requirement to dismiss is addressed in the job description.

6.3 Law enforcement officers, bus drivers, any employee who is required to have a Commercial Drivers License, who works with children, seniors or vulnerable adults, and those employees having director access to prescription drugs in their workplace are not eligible for a "Last Chance Agreement." If they violate this policy, they may be terminated or demoted/placed in a light duty position if one is available.

6.4 The Last Chance Agreement requires:

- (1) the employee to obtain an appointment for a chemical dependency assessment and appropriate treatment plan within 24 hours of receiving their positive drug test result.;
- (2) the employee to sign a release of information to the employer regarding the recommendations for treatment and the "fitness for duty" of the employee;
- (3) the employee to start a treatment plan immediately upon its formation;

(4) the employee to comply with all of the recommendations for treatment and the treatment plan;

(5) the employee to agree to periodic random testing by the LIBC (in addition to regular random employee testing) for two years following treatment.

6.5 Individuals will be responsible for paying for the assessment and treatment, not withstanding health insurance, Medicaid, or Lummi CHS for those eligible. LIBC is only responsible for the cost of two year random testing.

6.6 Employees must use their annual leave, sick leave, or leave without pay to attend required treatment. All leave shall be taken in accordance with the LIBC Personnel Policies.

6.7 Employees who enter into a Last Chance Agreement shall be not be allowed to return to work until they have started the treatment program recommended by their assessment.

6.8 A second verified positive drug or alcohol test or any violation pertaining to the LIBC drugs and alcohol policy will result in immediate termination. During treatment, the two year random testing or at any time during employment. An exception shall be made in cases of positive tests for marijuana. If an individual in a Last Chance Agreement tests positive for marijuana, they will only be terminated if the levels of marijuana remain unchanged or increase when compared to their most recent previous test.

## **7. Confidentiality**

7.1 All drug and alcohol testing, information regarding a specific individual, interviews, reports, statements, memoranda, and test results, written or otherwise, will remain strictly confidential. Release shall be only in accordance with federal confidentiality statutes and in accordance with this policy.

7.2 Any communications between LIBC Human Resources and the drug and alcohol testing program(s) regarding specific employees will be kept confidential and will be restricted to issues of compliance.

7.3 All test results will be regarded as medical data and will not be filed in an employee's personnel file. The status of an employee's drug test will be communicated within the LIBC on a strict need-to-know basis.

## **8. Employee & Supervisor Substance Abuse Training & Education**

8.1 Every employee will be required to read this policy and sign a statement to that effect. The employer will conduct an orientation to the policy for all new hires, will include this policy in the LIBC Personnel Policy Manual, and will continue to publicize the program throughout the organization.

8.2 The LIBC shall annually provide supervisory training through the HR Department. This training shall include: the connection between job performance deficiencies and impairment through drug and alcohol abuse; the importance of documentation of work performance deficiencies and impairment; how to refer impaired employees to evaluation and treatment; circumstances and procedures for post-injury testing or incident; supervisor responsibilities in a last chance agreement, and employee confidentiality.

8.3 The LIBC shall annually provide education to all employees regarding substance abuse and its effects on the workplace through the Human Resources Department.

## **604 Harassing Conduct In The Workplace**

Effective Date: 03/14/2018

### **1. PURPOSE**

This Policy is intended to assure that LIBC is taking all necessary steps to prevent harassing conduct in the workplace, and to correct the conduct before it becomes severe or pervasive.

### **2. POLICY AGAINST HARASSING CONDUCT**

It is the policy of the LIBC to maintain a work environment free from harassing conduct, as defined in Section 3 of this Policy.

The LIBC does not permit harassing conduct by anyone in the workplace. Harassing conduct of any form will not be tolerated.

Employees who have been found to have subjected another individual to harassing conduct, whether such behavior meets the legal definition of harassment or not, will be subject to corrective disciplinary action. Discipline will be appropriate to the circumstances, up to termination for cause. LIBC will not wait for a pattern of conduct to occur. Rather, the LIBC will act before the conduct is so severe or pervasive as to constitute a hostile environment.

LIBC will not tolerate retaliation against any employee for making a good-faith report of harassing conduct under this or any other policy or procedure, or for assisting in any investigation about such a report. Complaints of such retaliation shall be handled pursuant to the procedures in this Policy.

### **3. DEFINITION OF HARASSING CONDUCT**

HARASSING CONDUCT means:

Unwelcome, demeaning, or offensive verbal or physical conduct that is sexual in nature or based on a person's race, color, religion, national origin, sex, sexual orientation, gender identity, age, or disability, when that conduct:

- (1) reasonably prevents an employee from effectively performing the duties of his or her position;
- (2) creates an intimidating, hostile, or offensive working environment; or
- (3) is made a condition of employment or compensation, implicitly or explicitly.

A victim can be a man or woman and may also be of the same sex as the harasser. The harasser can be a supervisor, co-worker, other LIBC employee, or a non-employee with a business relationship with LIBC. Harassing conduct may include one incident or a series of incidents. Harassing conduct does not require intent to offend another person. Conduct meant as a joke, prank, or even a compliment can lead or contribute to harassing conduct.

EXAMPLES OF HARASSING CONDUCT may include, but are not limited to:

- Discussing sexual activities in the workplace
- Unwelcome and repeated flirting or sexual advances when the person has said no or has indicated he or she is not interested
- Requests for sexual favors
- Telling jokes of a sexual nature or concerning race, color, religion, national origin, sex, sexual orientation, gender identity, age, or disability
- Unnecessary and unwelcome touching including of a sexual nature
- Graphic or suggestive comments about someone's body or manner of dress (this does not include occasional compliments of a socially acceptable nature)
- teasing, jokes, slurs, innuendo, taunts, bullying or stereotyping
- Making, posting, or displaying pictures, cartoons or other material that are sexually suggestive or insensitive pictures concerning race, color, religion, national origin, sex, sexual orientation, gender identity, age, or disability
- Using crude, demeaning or inappropriate terms or epithets
- Using indecent or obscene gestures
- Giving gifts or leaving objects that are sexually suggestive
- Sabotaging the victim's work
- Engaging in or threatening violence
- off-duty, unwelcome conduct or a sexual nature that affects the work environment
- Supervisor fires or denies a promotion to a subordinate employee for refusing the supervisor's sexual advances;
- Supervisor requires a subordinate employee to participate in religious activities as part of the employee's job;
- Supervisor offers a promotion if a subordinate employee agrees to the supervisor's sexual advances.

The above examples are for illustrative purposes only and shall exclude other fact patterns from constituting harassing conduct.

#### **4. PROCEDURES AND RESPONSIBILITIES**

##### **Procedures Applicable to All Employees**

Each LIBC employee shall be responsible for:

1. Acting professionally and refraining from harassing conduct;
2. Becoming familiar with the provisions of this Policy, complying with all requirements of the Policy, and cooperating with any inquiry under this Policy; and

3. Promptly reporting, pursuant to procedures set forth in Section 5, any incident of harassing conduct that he or she experiences before it becomes a pattern of misconduct so pervasive and offensive as to constitute a hostile environment. The LIBC cannot correct harassing conduct if the conduct is not known. When an employee unreasonably fails to take advantage of this procedure and does not promptly report an incident of harassing conduct as set forth herein, the LIBC reserves the right to raise this failure to report as a defense against a suit for harassment.

### **Responsibilities of Directors, Supervisors and Managers**

All directors, supervisors and managers shall be responsible for:

1. Acting promptly and appropriately to prevent harassing conduct in the workplace, and retaliation against those who complain of harassing conduct;
2. Immediately reporting to the Human Resources Department, pursuant to procedures set forth in section 5, any incident of harassing conduct that they witness or is otherwise brought to their attention;
3. In consultation with the Human Resources Director, providing interim relief to alleged victims of harassing conduct pending the outcome of the investigation to ensure that further misconduct does not occur; and
4. In consultation with the Human Resources Director, taking prompt and appropriate corrective disciplinary action, up to and including termination, against employees who have engaged in harassing conduct or who have not carried out their responsibilities under this Policy.

### **Responsibilities of the Human Resources Director**

The HR Director shall be responsible for:

1. Disseminating this Policy annually to all employees. Distributing this procedures document to all Departmental offices and posting it on the LIBC Intranet website;
2. Ensuring that employees are informed of this Policy and the procedures to follow in connection with reporting harassing conduct;
3. Providing technical assistance and support, to assure compliance with this Policy;
4. Receiving complaints of harassing conduct under this Policy and ensuring that a prompt review of each complaint is done to determine whether the complaint falls within the purview of this Policy;
5. Conducting, or overseeing fair and impartial inquiries into complaints of harassing conduct. The HR Director will have the authority to decide who will conduct an investigation into a complaint of harassing conduct, provided that the person conducting the investigation has had appropriate training in investigating complaints of workplace misconduct;

6. Advising directors, managers, and supervisors, on providing interim relief to alleged victims of harassing conduct pending the outcome of the investigation to ensure further misconduct does not occur;
7. Providing advice to directors, managers, and supervisors on taking disciplinary actions for conduct that violates this Policy; and
8. Advising the Department Director or other persons who need to know of complaints of harassing conduct and the resolution of those complaints under this Policy.

### **Responsibilities of the Office of the Reservation Attorney**

The Office of the Reservation Attorney shall be responsible for:

1. Providing legal advice to management and the Human Resources Department concerning the implementation and interpretation of this Policy.
2. Assisting in conducting investigations into complaints of harassing conduct.

## **5. REPORTING HARASSING CONDUCT**

The procedures for reporting incidents of harassing conduct are as follows:

1. Any person who believes that he or she has been the subject of an incident of harassing conduct in violation of this Policy should report this matter to the Human Resources Department.
2. The complaint must be made in writing, dated and signed by the complainant.
3. An employee shall report harassing conduct as soon as he or she becomes aware of its occurrence in the workplace.
4. All information will be maintained on a confidential basis to the greatest extent possible. Such information, however, may have to be disclosed to defend the Department in any litigation to which the information may be relevant and necessary. Further, information may need to be disclosed to those officials and employees within the Department with a need to know in order to carry out the purpose and intent of this Policy.

## **6. INVESTIGATIONS INTO COMPLAINTS OF HARASSING CONDUCT**

### **A. Receipt of Complaint.**

Upon receipt of a written, signed and dated complaint, the Human Resources Director and designees from the Office of the Reservation Attorney (or if necessary, a qualified individual from outside the LIBC) will begin a prompt review to determine whether the complaint is within the purview of this Policy.

If the complaint is not based on an employee's race, color, religion, national origin, sex, age, disability, sexual orientation, or gender identity the HR Director will promptly inform the complainant and advise him or her to contact his or her immediate supervisor. The

HR Director will assist when possible, to reach an expeditious resolution to the problem presented.

The HR Director will document all action taken, even when the complaint has not screened in as a harassing conduct complaint.

For complaints that fall within the purview of this Policy, the HR Director and Office of the Reservation Attorney will ensure that a prompt, thorough, impartial and appropriate investigation is conducted.

#### B. Timeframe.

The LIBC aims to respond promptly, appropriately, and effectively to an employee's complaint of harassing conduct in the workplace.

The HR Director will respond to employees who report complaints of harassing conduct in the workplace, within five (5) working days of the date of receipt of the complaint to inform the employee of the procedural steps that will be taken to address the complaint.

The HR Director will employ all reasonable efforts to promptly investigate a harassing conduct complaint, to propose interim relief (if appropriate), to complete the investigation, and facilitate the issuance of corrective action or other decision of the appropriate management official, within 120 days from the date the employee first provides HR with a written, signed and dated complaint of the alleged harassing conduct.

#### C. Interim Relief.

While the complaint is being investigated, the HR Director shall determine whether it is necessary to put in place appropriate interim relief for the alleged victim of harassing conduct. Interim relief may be necessary to minimize conduct between the complainant and alleged harasser. Interim relief should be applied in a manner so as not to unduly burden the complainant and may include, but are not limited to:

1. Temporary reassignment or transfer;
2. Placement in a flex schedule;
3. Prohibiting contact in the workplace;
4. Administrative leave with pay when reassignment would present a hardship.

#### D. Conducting Investigation.

Where an investigation is necessary, the HR Director with the assistance of the Office of the Reservation Attorney, will conduct the investigation. For complex complaints or where there is a conflict of interest, the HR Director may employ a contract investigator.

The HR Director may invite a supervisor or management official to participate in the investigation process.

During the investigation, all parties must refrain from discussing the investigation with fellow employees, tribal members, patients, clients, etc.



LIBC will handle all reports of harassing conduct as discreetly as possible, sharing information on a need to know basis only. However, to properly investigate an allegation of harassing conduct, LIBC may need to divulge the identities of individuals involved.

The LIBC will interview and/or request signed written statements from all individuals and witnesses involved. Supervisors shall cooperate with any request to interview their subordinate employee.

#### E. Summary Report on Harassing Conduct Investigation.

A written summary of the investigation shall be prepared by the individual conducting the investigation (usually the HR Director and the Office of the Reservation Attorney). The summary may be brief, depending on the complexity and seriousness of the case. The report should include:

1. A discussion on the background of the complaint;
2. Findings from the investigation;
3. Recommendations proposing whether disciplinary action may be required to address the acts of the harasser and to prevent further harassing conduct; and
4. Where the investigation is inconclusive or concludes that no harassing conduct occurred, but other potentially concerning conduct is revealed, the report may recommend other preventative or corrective action be taken.

The summary shall be prepared promptly after completion of the investigation and a copy shall be provided to the HR Director, Office of the Reservation Attorney and the supervisor who would be responsible for taking disciplinary action against the alleged harasser, if the complaints are true.

The summary of the investigation or other documentation prepared under this procedure shall be kept confidential, to the extent possible. Such information, however, may have to be disclosed to defend the LIBC in any litigation to which the information may be relevant and necessary. Further, information may need to be disclosed to those officials and employees within LIBC with a need to know in order to carry out the purpose and intent of this Policy.

If the complainant or alleged harasser leaves employment at LIBC before the investigation is complete, the HR Director shall ensure that the investigation is completed and a final report is prepared.

## **7. ACTION TO BE TAKEN UPON COMPLETION OF THE INVESTIGATION**

The HR Director shall review the investigation report, evaluate the evidence gathered, and assess whether disciplinary action may be required to address the acts of the perpetrator and to prevent further harassing conduct.

In consultation with the HR Director, the supervisor shall promptly evaluate the evidence and determine the appropriate action to take. The HR Director shall be informed of this decision, including a decision not to act. In cases of complex or egregious alleged harassing

conduct, the supervisor and HR Director should seek the counsel of the Office of the Reservation Attorney.

Where the investigation establishes that an employee did engage in harassing conduct in violation of this Policy, he or she shall be subject to appropriate corrective disciplinary action, up to and including termination.

Where the investigation establishes that a manager or supervisor did not properly carry out the responsibilities provided for under this Policy, including any act of retaliation, he or she shall be subject to appropriate corrective disciplinary action, up to and including termination.

Where the investigation establishes that an employee intentionally filed a false claim (i.e. that is different than an unfounded claim), he or she shall be subject to appropriate corrective disciplinary action, up to and including termination.

At the conclusion of the investigation, both the complainant and alleged harasser will be issued a written determination as to the status of the complaint. To ensure the confidentiality of personnel information of other employees and protect the rights of persons involved in the complaint process, the HR Director may not report the specific actions taken. The HR Director shall be limited to informing the complainant that the matter is completed and shall inform him or her that "appropriate action" was taken.

## **605 Visitors in the Workplace**

Effective Date: 08/01/00

To provide for the safety and security of employees and the facilities at LIBC, only business-related visitors are allowed in the workplace. Restricting visitors helps maintain safety standards, protects against theft, ensures security of equipment, protects confidential information, safeguards employee welfare, and avoids potential distractions and disturbances.

Because of safety and security reasons, family and friends of employees are discouraged from visiting. Visits should be for a minimal time period, and preferably during the employee's lunch or break periods. In cases of emergency, employees will be called to meet any visitor outside their work area. If a need for an extended visit exists, employees shall ask their supervisor for permission.

All visitors should enter at the Division's Main Entrance. Authorized visitors will receive directions or be escorted to their destination. Employees are responsible for the conduct and safety of their visitors.

If an unauthorized individual is observed on LIBC's premises, employees should immediately notify their supervisor or, if necessary, direct the individual to the Division's Main Entrance.

## **606 Workplace Violence**

Effective Date: 08/01/00

The LIBC provides a safe workplace for all employees. To ensure a safe workplace and to reduce the risk of violence, all employees should review and understand all provisions of this workplace violence policy.

### **Prohibited Conduct**

We do not tolerate any type of workplace violence committed by or against employees. Employees are prohibited from making threats or engaging in violent activities.

This list of behaviors, while not inclusive, provides examples of conduct that is prohibited.

- ◆ Causing physical injury to another person;
- ◆ Making threatening remarks;
- ◆ Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
- ◆ Intentionally damaging employer property or property of another employee;
- ◆ Possession of a weapon while on company property or while on company business;
- ◆ Committing acts motivated by, or related to, sexual harassment or domestic violence.

### **Reporting Procedures**

Any potentially dangerous situation must be reported immediately to a supervisor or the Human Resources Department. Reports shall be made in writing and all reported incidents will be investigated. Reports or incidents warranting confidentiality will be handled appropriately and information will be disclosed to others only on a need-to-know basis. All parties involved in a situation will be counseled and the results of investigations will be discussed with them.

### **Risk Reduction Measures**

Individual Situations: While we do not expect employees to be skilled at identifying potentially dangerous persons, employees are expected to exercise good judgment and to inform the Human Resources Department if any employee exhibits behavior which could be a sign of a potentially dangerous situations. Such behavior includes:

- ◆ Discussing weapons or bringing them to the workplace;
- ◆ Displaying overt signs of extreme stress, resentment, hostility, or anger;
- ◆ Making threatening remarks;
- ◆ Sudden or significant deterioration of performance;
- ◆ Displaying irrational or inappropriate behavior.

### **Dangerous/Emergency Situations**

Employees who confront or encounter an armed or dangerous person should not attempt to challenge or disarm the individual. Employees should remain calm, make constant eye contact and talk to the individual. If a supervisor can be safely notified of need for assistance without endangering the safety of the employee or others, such notice should be given. Otherwise, cooperate and follow the instructions given.

**Enforcement**

Threats, threatening conduct, or any other acts of aggression or violence in the workplace will not be tolerated. Any employee determined to have committed such acts will be subject to disciplinary action, up to and including termination. Non-employees engaged in violent acts on LIBC's premises will be reported to the proper authorities and fully prosecuted.

## **701 Computer and E-mail Usage**

Effective Date: 08/01/00

Computers, computer files, and the e-mail system, and software furnished to employees are LIBC property intended for business use. Employees should not use another employee's password, access a file, or retrieve any stored communication without authorization.

For specific questions and/or concerns on proper computer and e-mail usage employees should refer to the IS computer and e-mail Policy located on the LIBC Intranet.

LIBC strives to maintain a workplace free of harassment and sensitive to the diversity of its employees. Therefore, LIBC prohibits the use of computers and the e-mail system in ways that are disruptive, offensive to others, or harmful to morale. For example, the display or transmission of sexually explicit images, messages, and cartoons is not allowed. Other such misuse includes, but is not limited to, ethnic slurs, racial comments, off-color jokes, or anything that may be construed as harassment or showing disrespect for others.

E-mail may not be used to solicit others for commercial ventures, religious or political causes, outside organizations, or other non-business matters.

LIBC purchases and licenses the use of various computer software for business purposes and does not own the copyright to this software or its related documentation. Unless authorized by the software developer, LIBC does not have the right to reproduce such software for use on more than one computer.

Employees may only use software on local area networks or on multiple machines according to the software license agreement. LIBC prohibits the illegal duplication of software and its related documentation.

Employees should notify their immediate supervisor, or the IS Department or any member of management upon learning of violations of this policy. Employees who violate this policy may be subject to disciplinary action, up to and including termination of employment.

## **701a Social Media**

Effective Date: 01/19/2016

### **PURPOSE**

LIBC understands that social media can be a fun and rewarding way to share your life and opinions with family, friends and co-workers around the world. However, use of social media also presents certain risks and carries with it certain responsibilities. To assist employees in making responsible decisions about the use of social media, we have established these guidelines for appropriate use of social media.

### **SCOPE**

This policy applies to all employees (hereafter, "employees") of the LIBC and any organization, division, branch, board, committee, commission, or office of the LIBC government or a tribal enterprise that performs specific functions or operations on behalf of the Tribe and are subject to this manual.

The policy addresses the use of social media for official business use and personal use by employees.

### **DEFINITIONS**

**Social Media:** includes all means of communicating or posting information or content of any sort on the Internet, including to your own or someone else's web log, blog or micro blog, wikis, journal, diary or electronic newsletter, online forum, personal web site, social networking or affinity web site, message boards, web bulletin board or a chat room, whether or not associated or affiliated with LIBC, as well as any other form of electronic communication.

**LIBC Stakeholders:** includes but not limited to co-workers, employees, clients, customers, tribal members, suppliers, or people who work on behalf of LIBC.

### **POLICY**

#### **Official Use**

All employees must comply with all LIBC social media policies and procedures, currently in effect or adopted in the future, regarding the use of social media for official LIBC purposes. Any social media presence that is not in compliance with LIBC policies and procedures may be terminated and employees responsible for violation of the LIBC policies and procedures will be subject to corrective disciplinary action up to and including termination.

#### **Personal Use**

Employees who use social media for strictly personal use outside of the workplace do not require LIBC approval to do so. Ultimately, employees are solely responsible for

what they post online. Before creating social media, consider some of the risks and rewards that are involved.

You should ensure that your social media is consistent with how you want to present yourself as a professional, appropriate with the public trust associated with your position, especially if:

- You identify yourself as an LIBC employee,
- You have clients or co-workers on your social media accounts, or
- You hold a position known to the general public.

Employees should have no expectation of privacy when using social media. Employees should be aware that LIBC may observe content and information made available by employees through social media. Employees should use their best judgment in posting material that is neither inappropriate nor harmful to LIBC, its employees, or customers.

Employees should keep in mind that any conduct that adversely affects job performance, the performance of co-workers or otherwise adversely affects LIBC stakeholders or LIBC's legitimate business interests, or conflicts with the essential job duties and responsibilities of your position, may result in corrective disciplinary action up to and including termination.

## **PROCEDURES FOR OFFICIAL AND PERSONAL USE OF SOCIAL MEDIA**

### **Using social media at work**

Employees are not permitted to use LIBC equipment for personal social media use. However, employees may use their own personal equipment for personal social media use during their fifteen minute breaks and their lunch break. The use of social media for official use on work time or on LIBC equipment is permitted when it is work related in accordance with LIBC policies and procedures and consistent with section 701 Computer and E-mail Usage Policy.

Do not use LIBC email addresses to register on social media for personal use.

### **Know and follow the rules**

All social media usage must be consistent with LIBC policies and procedures and the LIBC Human Resources Personnel Policy Manual. Ensure your postings are consistent with these policies and all other LIBC social media policies and procedures. Subject to applicable law, social media activity (whether official or personal use) that violates this Manual or any other LIBC policies and procedures may subject an employee to corrective disciplinary action up to and including termination.

Although not an exhaustive list of all LIBC policies and procedures applicable to employees, here are some policies in this Manual that you should keep in mind whenever you are using social media:

Employee Relations/Responsibilities (Policy 101)  
Non-Disclosure (Policy 104)  
Employee Conduct and Work Rules (Policy 501)  
Sexual and Other Unlawful Harassment (Policy 604)  
Workplace Violence (Policy 606)



## Computer and E-mail Usage (Policy 701)

### **Be respectful**

Always be fair and courteous to LIBC stakeholders. Also, keep in mind that you are more likely to resolve work-related complaints by speaking directly with your co-workers or by utilizing our Employee Relations Manager or Employee Assistance Program than by posting complaints to a social media outlet.

Nevertheless, if you decide to post complaints or criticism, avoid using statements, photographs, video or audio that reasonably could be viewed as malicious, obscene, threatening or intimidating, that disparage LIBC stakeholders, or that might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of race, sex, disability, religion or any other status protected by law or LIBC policy. Don't use ethnic slurs, personal insults, or obscenity.

Inappropriate postings that may include discriminatory remarks, harassment or bullying, or malicious, obscene, threatening or intimidating behavior, or similar inappropriate or unlawful conduct, or conduct that would not be acceptable in the LIBC workplace or that would violate LIBC policies and procedures will not be tolerated and may subject you to corrective disciplinary action up to and including termination.

### **Be honest and accurate**

Make sure you, social media, are always honest and accurate, and if you make a mistake, correct it quickly. Be open about any previous posts you have altered. Remember that the Internet archives almost everything; therefore, even deleted postings can be searched. Never post any information or rumors that you know to be false about LIBC, co-workers, members, customers, suppliers, and people working on behalf of LIBC or competitors.

### **Post only appropriate and respectful content**

Maintain the confidentiality of LIBC trade secrets and private or confidential information. Trade secrets may include information regarding the development of systems, processes, products, know-how and technology. Do not post internal reports, policies, procedures, personnel matters, or other internal business-related confidential communications including discussion of any legal matters, strategies or litigation. Refer to Policy 104 for additional details.

Do not create a link from your social media to a LIBC website without identifying yourself as a LIBC associate. This policy should not be interpreted to prohibit employees from posting, promoting or sharing LIBC events in an efforts to increase awareness and communication to the community.

Express only your personal opinions. Never represent yourself as a spokesperson for LIBC. If LIBC is a subject of the content you are creating, be clear and open about the fact that you are an employee and make it clear that your views do not represent those of LIBC, of LIBC stakeholders. If you do publish a blog or post online related to the work you do or subjects associated with LIBC, make it clear that you are not speaking on behalf of LIBC. It is best to

include a disclaimer such as "The postings on this site are my own and do not necessarily reflect the views of LIBC."

### **Retaliation is prohibited**

LIBC prohibits taking negative action against any person reporting a possible deviation from this policy or for cooperating in an investigation. Any employee who retaliates against another employee for reporting a possible deviation from this policy or for cooperating in an investigation will be subject to corrective disciplinary action, up to and including termination.

### **Media contacts**

Per Policy 101 Employee Relation/Responsibilities of this manual, No employee shall speak for the Lummi Nation to any mass media organization on any matter concerning the Nation without first obtaining approval from the LIBC Secretary. It is best to include a disclaimer such as "These statements are my own personal opinions, I do not speak for LIBC and they do not necessarily reflect the views of LIBC."

### **For more information or to report a potential violation**

If you have questions or need further guidance, contact the Human Resources Department. Please contact your immediate supervisor to report a violation of this policy. Supervisors will need to work with the Human Resources department to review the matter and identify corrective disciplinary action, if appropriate.

## **702 Personal uses of Telephone, Fax Machine and Mail Systems**

Effective Date: 08/01/00

To ensure effective telephone communications, employees should always speak in a courteous and professional manner. Please confirm information received from the caller and hang up only after the caller has done so.

Extended and repetitive personal use of the telephones, etc. is prohibited. No personal use of phones/fax are allowed unless absolutely necessary. Employees are to use their own calling card for personal calls that are long distance.

The use of LIBC-paid postage for personal correspondence is not permitted.

## **703 Return of Property**

Effective Date: 08/01/00

Employees are responsible for all LIBC property, materials, or written information issued to them or in their possession or control. Employees must return all LIBC property immediately upon request or upon termination of employment. Where permitted by applicable laws, policies, or agreements LIBC may withhold from the employee's check or final paycheck the cost of any items that are not returned when required. LIBC may also take all action deemed appropriate to recover or protect its property.

## **704 Business Travel Expenses**

Effective Date: 08/01/00

LIBC will reimburse employees for reasonable business travel expenses incurred while on assignments away from the normal work location. The Department Director must approve all business travel in advance. The CEO must approve all out of state travel.

Employees whose travel plans have been approved should make all travel arrangements through LIBC's designated travel agency and follow the LIBC Travel Policy, which can be found on the LIBC Intranet.

When approved, the per diem rate for travel, meals, lodging, and other expenses directly related to accomplishing business travel objectives will be reimbursed by LIBC. Employees are expected to limit expenses to reasonable amounts.

Advances to cover reasonable anticipated expenses may be given to employees after travel has been approved. Employees should submit a written request to their supervisor when travel advances are needed.

With prior approval, a family member or friend may accompany employees on business travel when the presence of a companion will not interfere with successful completion of business objectives. Expenses incurred by the family member or friend shall not be the responsibility of LIBC.

Generally, employees are also permitted to combine personal travel with business travel, as long as time away from work is approved. Additional expenses arising from such non-business travel are the responsibility of the employee.

When travel is completed, employees should submit completed travel expense reports within 5 working days. All receipts should accompany reports for Hotel and allowable expenses.

Employees should contact their supervisor for guidance and assistance on procedures related to travel arrangements, travel advances, expense reports, reimbursement for specific expenses, or any other business travel issues and refer to the LIBC Travel Policy (see LIBC intranet)

Abuse of this business travel expenses policy, including falsifying expense reports to reflect costs not incurred by the employee, can be grounds for disciplinary action, up to and including termination of employment.

## **705 Driving For Work Purposes**

Effective Date: 04/19/2011

Many positions with LIBC require an employee to drive a motor vehicle. If an employee is required to drive a vehicle for work purposes, whether it be their own vehicle or a tribal vehicle, they must submit a copy of their valid driver's license and driving abstract to the Human Resources Department in order to ensure that the employee is insurable through LIBC's insurance carrier. If an employee has an out-of-state driver's license, they must obtain a Washington State driver's license within thirty (30) days.

In order for an employee to be insurable and drive for work purposes they must meet the criteria of the current LIBC insurance carrier and be placed on the LIBC driver's list. For a complete list of the disqualifying criteria, go to the Human Resources Department. If an employee chooses to drive their own vehicle for work purposes, they must be on the LIBC driver's list, any reimbursement for mileage will not occur until the employee is on the driver's list.

Employees who are involved in an accident while traveling on company business must promptly report the incident to their immediate supervisor upon return. Vehicles owned, leased, or rented by LIBC may not be used for personal use. For accident reports involving and motor vehicle, the employee's supervisor should forward a written report to the LIBC assets manager. If personal injuries are also involved the report should be forwarded to the Human Resources Department.

Employees who receive traffic violation and/or parking tickets while on company business will be responsible for paying their violations without the use of tribal funds. Employees who receive a parking violation or moving violation of any kind while using a tribal vehicle shall report this to the Human Resources Department and the Planning Department when returning the vehicle to the motor pool. Failure to report the violation will result in disciplinary action up to and including termination of employment.

Smoking in tribal vehicles is prohibited per Section 602.

## **706 Background Checks/Appeals Process**

Effective Date: 05/07/2013

Applicants and employees (including commission/board/committee (CBC) members) within the LIBC shall be subject to background checks in order to protect the people and assets of the Lummi Nation.

All positions within the LIBC shall be placed into one of the following categories which then details what would disqualify them from potential or ongoing employment and how often a background check shall be conducted. If Lummi agencies licensed by other jurisdictions have employment criteria more restrictive than those detailed in this policy, the more restrictive criteria shall apply to applicants/employees working within these agencies.

### **Categories**

1. Warrants, Driving and LIBC Debt Check
2. Public Trust
3. Regular Contact or Control Over Children
4. Law Enforcement

Depending on the position applied for or held, background checks may include any federal, state or tribal records including, but not limited to: both adult and juvenile (where applicable) criminal histories, as well as vulnerable population abuse and neglect reporting records.

### **Applicants**

An applicant must undergo a background check prior to being hired into any position or moving to a position that requires a different background category. If a pre-employment background check shows that the applicant is not eligible for the position, they will receive an ineligibility determination letter from Human Resources. However, if the ineligibility is not mandated by law, the direct supervisor, the department director and the Human Resources Director may agree to amend the position's job duties to accommodate the applicant. If the ineligibility is not mandated by law, the applicant may also file an appeal based on the ineligibility determination. *See Applicants Appeal section below.*

If an applicant has a pending criminal charge or open Child or Adult Protective Services investigation that may result in a disqualifying conviction, the applicant shall not be hired and are not eligible to appeal to the Appeals Board until the pending charges are resolved.

### **Employees**

If a background check on a current employee shows that the employee is not eligible for the position they occupy, the department director and Human Resources Director shall meet to review the findings and job description to see if accommodations can be made by modifying the job description. If the job description is not able to be modified or the modification will cause undue hardship to the department, the employee shall be terminated immediately. If an employee is arrested or charged with a criminal offense during employment, the employee or someone on their behalf shall report the arrest or charge(s) within three business days to their immediate supervisor who shall then forward this notice to the department director and Human

Resources Director. Failure to report an arrest or criminal charge within three business days shall be cause for immediate termination. Further, if the Human Resources Department has good cause to believe an employee has a criminal charge or conviction which the Human Resources Department does not have documented, they shall conduct a background check outside of the normal timeframes.

### **Background Check Categories and Criteria**

#### Category 1: Warrants, Driving and LIBC Debt Investigation

- A. Applicants/employees in all categories shall be subject to a background check for any outstanding warrants (from any jurisdiction) and past-due debt to the LIBC per Resolution 96-93. Outstanding warrants and past-due debt to the LIBC shall disqualify an individual from employment until the warrants are cleared and debts eliminated or payback arrangements made.
- B. Applicants/employees in all categories shall be subject to a driving abstract check if their job description requires them to drive for work purposes. They must meet the criteria of the current LIBC insurance carrier and be placed on the LIBC driver's list.

This background check will be conducted at the time of hire and at least once every three years thereafter.

#### Category 2: Public Trust

- A. Applicable to applicants/employees who have access to: cash (work orders, purchase orders, checks, etc.), confidential records, medical records and tribal financial data.

Must not have been convicted, plead guilty or plead "no contest" within the previous two years to a crime of:

- Theft; or
- Crime of dishonesty; or
- Any drug related crime

- B. Applicable to applicants/employees who have access to prescription drugs or who have regular contact with elders or vulnerable adults.

Must not have been convicted, plead guilty or plead "no contest" within the previous five years to one or more felony offenses, or within the previous three years to one or more misdemeanor offenses involving:

- Theft; or
- Crime of dishonesty; or
- Crime against a person;
- Crime of violence

Must not have been convicted, plead guilty or plead "no contest" to any felony drug offense more serious than possession within the previous five years or any misdemeanor drug related crime within the previous three years.



Must not have been convicted, plead guilty, plead "no contest," or been found responsible for a founded report of abuse or neglect within an adult protective services reporting system within the previous five years.

This background check will be conducted at the time of hire and every three years thereafter.

### Category 3: Regular Contact or Control over Children

Applicable to all applicants/employees who have regular contact with or control over children.

Must not have been convicted, plead guilty or plead "no contest" to one felony offense or two misdemeanor offenses involving:

- A crime of violence; or
- Sexual assault; or
- Molestation; or
- Exploitation; or
- Contact or prostitution; or
- A crime against a persons; or
- An offense committed against a child(ren)

Must not have been convicted, plead guilty or plead "no contest" to any offense involving any of the above noted types of crimes within the previous three years.

Must not have been convicted, plead guilty or plead "no contest" to any felony drug related crime within the previous five years or any misdemeanor drug related crime within the previous three years.

Must not have been convicted, plead guilty, plead "no contest," or been found responsible for a founded report of abuse or neglect within a child protective services reporting system within the previous five years.

This background check will be conducted at the time of hire and at least once every twelve months thereafter.

### Category 4: LNPD Employees

Applicable to all applicants/employees whom are commissioned or certified law enforcement officials.

Law Enforcement Officials shall be disqualified from employment:

- (1) if they have been convicted in any court of a crime punishable by imprisonment for a term exceeding one year;
- (2) if they are a fugitive from justice;
- (3) if they are an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));
- (4) if they have been adjudicated as a mental defective or who has been committed to a mental institution;

- (5) if they are an alien
  - (A) who is illegally or unlawfully in the United States; or
  - (B) except as provided in subsection (y)(2), who has been admitted to the United States under a non-immigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26));
- (6) if they have been discharged from the Armed Forces under dishonorable conditions;
- (7) if, having been a citizen of the United States, has renounced citizenship;
- (8) if they are subject to a court order that
  - (A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;
  - (B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child;
  - (C) (i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury
- (9) if they have been convicted in any court of a misdemeanor crime of domestic violence.

Juvenile records will also be reviewed.

All of the above disqualifiers are mandated by the "Brady Bill" –18 U.S.C. §922.

This background check will be conducted at the time of hire and at least once every three years thereafter.

### **Juvenile Background Checks**

- A. Juveniles who work with other juveniles, elders or vulnerable adults, or in law enforcement shall be subject to the same background check as adults.
- B. Juveniles who do not work with other juveniles, vulnerable adults or in law enforcement shall only be subject to the background check requirements of Category 1.

If the background check reveals a disqualifying juvenile conviction, the Appeals Board shall make a case-by-case determination of their eligibility for employment.

### **Temporary Emergency Hiring**

LIBC understands that, at times, staffing emergencies arise from uncontrollable circumstances. Department directors may request to hire a temporary employee on an emergency basis with written approval from the Human Resources Director and the General Manager. Emergency hires must first go to the Human Resources Department to complete their background check forms and drug test. No individuals who work with juveniles, elders or vulnerable adults, or who work in law enforcement, are eligible to be hired on an emergency basis.

### **Applicants Appeal of Ineligibility due to Criminal Background**

Applicants who are deemed ineligible for employment in a certain category due to findings in their pre-employment criminal background check may request to appeal the denial to an Appeals Board, as long as the ineligibility is not mandated by law.

Pre-employment criminal background checks are performed after a written job offer has been made and accepted. If an applicant is denied employment based on the results of the criminal background check, they may appeal the denial by submitting a completed Request for Appeal form. Completion of this form requires the position's immediate supervisor and department director to support the hiring of the applicant despite his or her criminal background.

To qualify for an appeal, you must be an enrolled member of a federally recognized American Indian tribe.

An applicant will have five business days from issuance of the letter informing them that they are ineligible based on the findings of the criminal background check to appeal the ineligible determination through submission of a completed Request for Appeal form to the Human Resources Department. If the applicant is unable to obtain the required signatures on the Request for Appeal form due to the supervisors and/or department directors absence, this time frame may be extended. Failure to timely submit a completed form ends all rights to appeal and waives the applicant's right to a hearing or any further appeal.

An Appeals Board shall be formed in the same manner and from the same groups of employees as the Grievance Review Board identified in Section 505 of this manual.

Human Resources will provide administrative guidance regarding the Appeals Board policy and procedures.

#### Role of the Appeals Board

The Appeals Board's sole purpose is to examine the facts surrounding the determination of ineligibility and determine whether or not to grant a waiver. The Appeals Board may only grant a waiver if both of the following conditions are met. 1) The Appeals Board finds that the facts and evidence more likely than not support the position of the applicant; and 2) the Appeals Board determines that having the applicant in the position will not jeopardize the health and safety of other employees, clients and students and/or their confidential records. Following the hearing, the Appeals Board shall make a written decision within three days to approve or deny the request for a waiver. This timeframe may be extended due to unforeseen circumstances. Written notice of any time extension shall be provided to the applicant. The Appeals Boards' decision is final and there shall be no appeal, either administrative or judicial, from this decision. Decisions resulting from the appeals process shall not create binding precedent for future appeals.

#### **Initial Implementation**

All provisions of this policy will be immediately effective upon its adoption. If, however, an initial background check on an individual employed prior to this policy's adoption reveals information that would otherwise make them ineligible for employment, their eligibility for employment shall be examined on a case-by-case basis by the department director, the General

Manager and the Human Resources Director. However, there shall be no exceptions allowed regarding the policy's eligibility rules related to individuals who work in law enforcement or who work with children, elders and vulnerable adults.

## **707 Nepotism**

Effective Date: 08/01/00

No member of an immediate family or a cohabitant will participate in the selection of an applicant for employment. Immediate family is defined in the Bereavement Section 308 of this policy. It also includes co-habitants and their immediate relatives.

No employee may be assigned to a unit supervised by a member of the immediate family. Discretionary exceptions may be permitted upon approval of the appropriate executive director and Human Resources Director when no other qualified applicants are available. In the event the supervisory relationship is brought into existence by the promotion of an employee, the Human Resources Director shall make a decision as to the proper personnel action to take on an individual case basis.

However, no employee shall be denied a position on the basis of their family relationship to another employee in the same department.

## **708 Personnel Records/Employment Verification**

Effective Date: 08/01/00

Personnel records for employees shall be maintained in order to document employment related decisions. The Human Resources Department will maintain the official Personnel File of all employees.

Employees have a responsibility to make sure their personnel records are up to date and should notify the Human Resources Department in writing of any changes in the following:

- ◆ Name Change
- ◆ Address Change
- ◆ Telephone Number Change
- ◆ Marital Status
- ◆ Number of dependants
- ◆ Address & Telephone number of former dependants
- ◆ Beneficiary designations
- ◆ Person(s) to be notified in case of emergency

Employees may inspect their own personnel records, and may request copies of documents contained within their file (at their expense), but may not remove documents from their file. Such an inspection must be requested in writing to the Human Resources Department and will be scheduled at a mutually convenient time. All inspections must be done in front of a Human Resources Representative.

Employees are to refer all outside (non-employees, outside companies, banks etc) requests for personnel information concerning applicants, employees and past employees to the Human Resources Department. The Human Resources department will only verify dates of employment position, title and wage information and only with written authorization from that person. Failure of an employee to forward these requests to the Human Resources Department regarding a former or current employee may result in corrective action.

**The following sections have been amended and incorporated:**

Section 105	Approved 6/21/2011	RESO#2011-097
Section 201	Approved 12/1/2015	RESO#2015-053
Section 201 a	Approved 12/1/2015	RESO #2015-053
Section 206	Approved 12/1/2015	RESO #2015-053
Sections 203, 504, 505	Approved 3/17/2008	RESO#2008-031
Section 203-Suspension of Challenge Policy	Approved 8/4/2009	RESO#2009-126
Section 206	Approved 6/21/2011	RESO#2011-095
Section 207	Approved 6/21/2011	RESO#2011-099
Section 302	Approved 03/14/2018	RESO#2018-039
Section 303	Approved 5/7/2013	RESO#2013-058
Section 306,308,309,310,311,318,319,320,321	Approved 03/14/2018	RESO#2018-039
Section 303, 304, 305, 306, 504A, 603	Approved 5/5/2009	RESO#2009-047
Section 308	Approved 7/10/2012	RESO#2012-103
Section 401	Approved 12/1/2015	RESO #2015-053
Section 402	Approved 12/1/2015	RESO #2015-053
Section 404	Approved 2/24/2009	RESO#2009-038
Section 409	Approved 12/1/2015	RESO#2015-053
Section 410	Approved 12/1/2015	RESO#2015-053
Section 502	Approved 7/6/2011	RESO#2011-098
Section 505	Approved 10/23/2012	RESO#2012-147
Section 601	Approved 3/15/2011	RESO#2011-032
Section 602	Approved 3/15/2011	RESO#2011-033
Section 604	Approved 3/14/2018	RESO#2018-039
Section 701A	Approved 01/19/2016	RESO#2016-031
Section 705	Approved 4/19/2011	RESO#2011-068
Section 706	Approved 5/6/2008	RESO#2008-063
Section 706	Approved 5/7/2013	RESO#2013-054