

## **V. GENERAL EMPLOYMENT AND PERSONNEL ACTIONS**

### **A. Promotion-From-Within**

While maintaining consistent application of MBCI's Native American Preference Policy and Veteran Preference Policy, enrolled members of MBCI who are employed by the Tribe, including participants in training programs within the MBCI, will be given preference in the filling of vacancies. Promotions entailing only salary increases and/ or modifications of or additions to existing job responsibilities and duties of an employee may be made at the discretion of the Chief, provided that the Chief provides written notification of each such promotion to each member of the Tribal Council's Committee on Human Resources, Training and Development. Such written notification shall be included in a Human Resources Quarterly Report and shall include: employee's former and present job titles; date of promotion; amount of rate of pay change, if applicable; and all changes, additions, or deletions from the job description duties or responsibilities for the former and present positions, if applicable. The Human Resources Quarterly Report must be provided to each member of the Tribal Council's Committee on Human Resources, Training and Development on or before the tenth (10th) day of the calendar month immediately following the end of the quarter to which the Human Resources Quarterly Report pertains.

### **B. Identification of Hiring and Salary Approval Authority**

The Chief must approve a manager or supervisor's recommendation for employment before any offer is made to a prospective employee. This includes rate of pay approval.

The Tribal Council shall establish a basic departmental structure for the Tribal Government executive branch.

### **C. Nepotism**

No person may hold a position over which a near relative exercises supervisory authority or in which a near relative is in a position to order or recommend personnel actions which would affect him or her. Similarly, no person may hold a position in which he or she exercises supervisory authority or responsibility over a near relative. This provision does not apply to persons occupying positions to which they were elected.

A near relative is defined as one of the following: husband, wife, child, step-child, grandchild, grandparent, mother, father, sister, brother, son-in-law, daughter-in-law, father-in-law, mother-in-law, sister-in-law, brother-in-law.

### **D. Candidate Screening Practices**

To the maximum extent possible, the Tribe will check the references and former employers listed by applicants on the standard application form. If the position requires that an employee be licensed, the Tribe will inquire whether the candidates have been licensed or are

able to be licensed upon commencement of employment.

Where the nature of the job warrants it, the job announcement may cite that the applicant is subject to examination. The examination shall pertain to those matters which test the capacity and fitness of the candidate to discharge in a satisfactory manner the essential duties of the job for which he/she is applying. Examinations may be oral, written, physical, manual, or a combination, and, if the job description so states, may be required annually for recertification and continued employment.

The Chief is authorized to hire persons in professional health positions at Choctaw Health Center and Community Health Clinics and persons in the Department of Schools requiring certification or licensure (such as physicians, registered nurses, dentists, and pharmacists and teachers) after the closing of a job announcement if a job announcement has been issued. If a Native American has applied for the position, and meets the job requirements, but is not preferred to be selected, a Waiver of Native American preference must be obtained from the Committee on Human Resources, Training and Development.

Applicants for educational and non-educational positions within MBCI for which background checks are required, and for which there are limitations on eligibility for employment based on criminal background mandated by public law, including but not limited to the Department of Public Safety, Public Trust, Education Contract positions, Head Start and Day Care programs, and volunteers covered by 25 U.S.C. § 3207 et seq. (which includes all positions that involve regular contact with, or control over, Indian children) and those positions identified in the MBCI Employment Background Check Policy must sign a declaration prior to employment, which lists:

1. all pending and prior criminal arrests and charges related to child sexual abuse, drug-related criminal convictions, crimes of violence, crimes against persons, and their disposition;
2. all charges or convictions related to other forms of child abuse and/or neglect; and
3. all convictions of criminal conduct; provided that the declaration may exclude:
  - a. traffic fines of \$200 or less;
  - b. any offense, other than any offense related to child abuse and/or child sexual abuse or violent felonies, committed before the prospective employee's 18th birthday, which was finally adjudicated in a juvenile court or under youth offender law;
  - c. any conviction the record of which has been expunged under federal or state law; and
  - d. any conviction set aside under the Federal Youth Corrections Act or similar state authority.

Prior to placing such person on duty, or approving a volunteer placement in a designated position, the Office of Human Resources shall have conducted a state and/or national criminal

record check and confirmed that the applicant or volunteer meets the requirements of the program, applicable public law, and the MBCI Employment Background Check Policy as applicable. All persons placed on duty or approved for volunteer placement under this paragraph are on provisional status until such time as a Suitability Determination is completed.

**Persons making material misrepresentations in their application are subject to immediate termination.**

#### **E. Initial Probationary Period**

All regular employees, except Education Contract employees and political appointees, will be placed on probation for the first ninety (90) calendar days of employment. Temporary employees shall remain in probationary status during their entire period of employment.

MBCI reserves the right to terminate any employee during his or her probationary period, for any or no reason, and without appeal. Any adverse personnel action that is initiated by a supervisor before the end of the ninety (90) day probationary period, but which is not finalized within the 90-day probationary period, will be deemed to have been finalized before the end of the probationary period. However, continued employment either during or after completion of the probationary period is not guaranteed. Acceptance of employment is expressly conditioned on this understanding.

During the probationary period, the supervisor shall meet with each employee every thirty (30) calendar days to review the employee's job performance and the supervisor's expectations of the employee. At the end of the ninety (90) day period, the supervisor shall evaluate the employee's fitness and ability to perform the duties of the position. The supervisor shall announce in writing to the employee a change in status from probationary to regular full-time employee and shall place a copy of such notice in the permanent record of the employee, and it shall constitute the first evaluation of the employee. Upon satisfactory completion of the probationary period, all rights and privileges of a regular employee shall be vested in the employee retroactively to the first day of employment.

#### **VI. POLICY FOR A DRUG-FREE AND ALCOHOL-FREE WORKPLACE**

MBCI has three (3) separate Drug and Alcohol Policies, and each tribal employee will be covered under a specific policy depending upon their job duties. The policies are as follows:

1. MBCI Drug and Alcohol Policy;
2. DOT Drug and Alcohol Policy; and
3. FTA Drug and Alcohol Policy.

Each employee is required to sign an Employee Notice and Acknowledgement of MBCI's Drug and Alcohol Testing Requirements which will indicate which Drug and Alcohol Policy the employee is required to follow.