

I. INTRODUCTION

A. Responsibility

The Administrative Personnel Policy and Procedures (“Policy”) has been enacted by the Mississippi Band of Choctaw Indians Tribal Council pursuant to Article VIII, Section 1(c) of the Tribal Constitution. The Tribal Chief (“Chief”) has the duty and responsibility under Article IX, Section 1(b) of the Tribal Constitution to carry out this Policy, and the power and duty under Article IX, Section 1(d) to manage, administer and direct the operation of the tribal programs, activities and services and to report to the Tribal Council on the status of each program.

The Chief is authorized to issue procedures necessary to carry out this Policy. The Chief retains final signature authority for hiring employees working in the Tribal Government Services Division, with the exception of those employees whose employment must be confirmed by Tribal Council. The Tribal Chief has the authority to discipline, suspend, and terminate employees in accordance with this Policy. Changes or amendments to this Policy must be approved by the Tribal Council at any regular or special called meeting.

No personnel action, such as transfer of employees, hiring of new employees, terminations, suspensions, changes in salary, or any other personnel action is valid or effective until all levels of the chain of command have authorized the action consistent with this Policy and other Tribal ordinances and resolutions, as determined appropriate under the applicable law.

B. Application

This Policy applies to all MBCI Government Services Division employees including, managers and supervisors. The Policy also applies to all elected officials of the tribe. Elected officials of the Tribe, such as Tribal Council Members and the Tribal Chief, while acting in their elected capacities, are also governed by the MBCI Constitution and Bylaws and, in some instances, by additional ordinances.

This Policy is not an actual or implied contract between MBCI and any of its employees. All policies, practices, procedures, and benefits of MBCI, whether or not described in this Policy, may be changed, modified, or discontinued by MBCI at any time, without prior notice and with retroactive effect.

From time to time, this Policy may be amended. You will be responsible for familiarizing yourself with the amendments as they are issued and for complying with any amendments. Each page of this Policy is numbered and dated. As revised pages are issued from time to time, the pages which they supersede should be removed and discarded.

All employees will be given a copy of this Policy, and they will sign an acknowledgment certifying that they have read and understand the Policy.

C. Sovereign Immunity

Nothing in this Policy shall be construed as an express or implied waiver of the Tribe's sovereign immunity.

II. EMPLOYMENT POLICIES

A. Native American Preference

MBCI adheres to a publicly announced policy and practice of extending preferential treatment to all eligible Native Americans with regard to recruitment, employment, reduction in force, promotion, training, transfer, and related employment actions to the maximum extent permitted by applicable law. For purposes of this Policy, the order of Native American preference shall be: first, an enrolled MBCI Member; second, unenrolled descendants of members of the MBCI; and third, all other Native American Indians enrolled in a federally recognized Tribe.

MBCI maintains a program of recruiting, training, and upgrading Native Americans, and to the extent that funding permits, shall provide pre-employment and pre-promotion training for eligible Native Americans to help achieve its goal of ensuring maximum Native American employment in all levels of the workforce, including management.

Further bolstering this Native American preference to promote employment of MBCI members, it is the policy of MBCI to employ person(s) who are not members of MBCI only when no qualified member of MBCI, who has applied for the position, can be trained or upgraded to fill a given job vacancy within a reasonable period of time at a reasonable cost, and then only when a Waiver of Native American Preference has been secured from the Committee on Human Resources, Training and Development on a case-by-case basis.

The authority to waive Native American Preference laws can only be exercised by the Committee on Human Resources, Training and Development. The Committee will exercise its discretion to do so only when a motion is made by a committee member to support such waiver and the Committee determines by reviewing the facts and appropriate written documentation that a waiver is justified. A waiver to allow the employment of a person who is not a member of MBCI, or to employ a person who is Native American outside the order of preference set forth in this Policy, can be made by the Committee only for as long as the person who is granted the waiver remains in the position for which the waiver was granted. That waiver does not apply to other openings which the person who is granted the waiver may request a promotion or transfer for, or apply for. The Committee only has the right to approve or disapprove a waiver that has been requested by Executive branch supervisors, and has no right to direct, demand, or coerce any Executive Branch supervisor or personnel that any specific applicant other than the one for which waiver is sought, be employed. Supervisors who do not follow the Native American Preference Policy are subject to disciplinary action up to termination. A waiver is not required if no Native American has applied for a position.