G. Working On-Call

The nature of some positions with MBCI requires that some employees in those positions be placed "on call." This will always be reflected in the position description and all new employees will be informed of this before they agree to accept a job offer. Employees that are placed "on call" are asked to respond to pagers, beepers or cellphones by reporting to their duty station within a reasonable time period.

XI. BENEFITS

MBCI offers a broad range of benefits to eligible employees. The summary plan descriptions and formal plan documents provide the eligibility requirements and an explanation of the benefits offered. Copies of the summary plan descriptions, the formal plan documents, or any other documents relating to employee benefit plans, will be made available to employees upon hire. If you have any questions regarding this information, or if you believe you did not receive any of the above-described information, please contact the Office of Risk Management.

XII. TIME OFF FROM WORK

A. Holidays

Employees are eligible for "holiday pay" on thirteen (13) holidays each year. The holidays recognized by MBCI are:

New Years' Day (Jan. 1)	**Labor Day** (first Monday in Sept.)
MLK, Jr. Day (3rd Monday in Jan.)	**Native American Day** (4th Friday in Sept.)
President's Day (third Monday in Feb.)	**Veteran's Day** (Nov. 11)
Good Friday (Friday before Easter)	**Thanksgiving Day** (4th Thursday in Nov.)
Memorial Day (last Monday in May)	**Native American Heritage Day** (day after Thanksgiving)
Independence Day (July 4)	
Nanih Waiya Day (2nd Friday in August)	**Christmas Day** (December 25)

If a holiday falls on a Saturday, it will be observed the day before on Friday. If a holiday falls on a Sunday, it will be observed on the following Monday.

To be eligible to receive holiday pay, however, an employee must work his or her scheduled hours, or be on pre-approved leave, on the workday immediately preceding and the workday immediately following the holiday. If any holiday occurs during an employee's approved annual leave, that day will not be charged against the employee's annual leave.

Exempt employees receive no additional compensation beyond their salary, base, or commissioned pay for holidays.

B. Annual Leave

Each employee may take annual leave with full salary at such time as is mutually agreed upon with his or her supervisor. Annual leave may be taken in "one-hour" increments or longer, based on the following accrual rate: employees with less than three (3) years of continuous service to MBCI government services shall accrue annual leave at the rate of one-half (1/2) day for each full biweekly pay period; employees with more than three (3) but less than ten (10) years continuous service to MBCI government services shall accrue three-fourths (3/4) day annual leave for each biweekly pay period; employees with ten (10) or more years continuous service to MBCI government services will accrue one (1) day annual leave for each biweekly pay period. Employees with a greater accrual rate under prior policy will continue accrual under that policy until they reach a higher rate under this new annual leave accrual policy.

A regular full-time and regular part-time employee accrues annual leave from the first day of employment but is not eligible to take accrued annual leave until he or she has completed 90 continuous calendar days of service. Employees may not borrow annual leave time.

At the beginning of any fiscal year, each employee may carryover from the preceding year(s) no more than 480 hours of annual leave. In their discretion, nonexempt employees may elect to redeem accrued annual leave exceeding 480 hours for its full monetary value; subject to the following conditions:

1. Nonexempt employees may not redeem more than 160 hours of accrued annual leave in a fiscal year;
2. Nonexempt employees may redeem accrued annual leave under this paragraph no more than once in a fiscal year and must be redeemed between the first day of the last month of the fiscal year and the last day of the last month of the fiscal year; and
3. No annual leave will be redeemed if the Tribe determines in its sole discretion that there are insufficient funds available to do so; and
4. The monetary value of all redeemed leave shall be calculated at the lowest rate at which the employee was compensated during the fiscal year.

Education Contract Employees who have an annual leave balance they accrued prior to becoming an Education Contract Employee may maintain, use, or be compensated for such leave under the same terms and conditions as other tribal employees, provided that no Education Contract Employee may carry over from one contract to the next more than a total of 480 hours of combined annual and personal leave. Employees who are transferred out of the Department of Schools may convert their personal leave balance to annual leave.

A regular full-time or regular part-time employee will be compensated for unused annual leave not to exceed 60 days, (480 hours) at the salary rate he or she is earning at the time of termination of employment, subject to the availability of funds.

If a medically documented illness occurs during an annual leave period, sick leave may be substituted for those days during the vacation when the employee was ill.

An employee who leaves Tribal employment voluntarily and in good standing, and who returns to work for the Tribe within two (2) years of departure, including political appointees and Tribal employees transferring to and from employment within the Business Enterprise Division and the Tribal Government Services Division, may be given a benefit bridge to reinstate their accrual rate for annual leave and may participate in the retirement program without the waiting period, upon approval by the Chief. An employee who believes approval under this paragraph was wrongfully withheld by the Chief may proceed to Step Three of the grievance process established under this Policy.

C. Sick Leave

Paid sick leave is accrued at the rate of one-half day per full biweekly pay period. At the discretion of the Chief, employees may borrow paid sick leave from themselves in an amount not to exceed the amount they would have accrued by the end of MBCI's fiscal year, or by the end of their budget's program year. During employment, sick leave borrowed by an employee will be repaid through automatic deductions of all annual and sick leave accrued by the employee each pay period, until all borrowed leave is repaid. Upon conclusion of employment, employees who have borrowed sick leave will have those days deducted from their final paycheck. Employees will not be compensated for unused sick leave when their employment concludes. Employees who have a negative balance of sick leave upon conclusion of their employment, and after appropriate deductions from their final paycheck, are subject to civil liability in the Choctaw Tribal Court for the cash equivalent of such sums and attorney fees and costs associated with recovering such sums.

Employees may not accrue the full amounts of sick and annual leave during a pay period when an employee has worked less than 80 hours due in that pay period.

Sick leave may be granted for:

1. Personal illness or physical incapacity;
2. An acute illness among the members of the employee's immediate family (husband, wife, child, grandchild, brother, sister, mother, father, grandmother, grandfather, or any aunt, uncle, niece and nephew who is related to the employee within the 3rd degree according to the Nolan Chart of Relationships and Degrees of Kindred); and/or
3. Medical, dental, optical, psychiatric or psychological examination or treatment to the employee by a licensed physician or a traditional Indian practitioner or examination or treatment of a member of the employee's immediate family, if the employee must accompany them to the examination or treatment. For purposes of this policy, the term "immediate family" is the same as stated above in subsection 2.

Whenever the employee has prior knowledge of the need to use sick leave, he or she must make his or her request in advance to the supervisor. When the employee does not have prior knowledge of the need to use sick leave, he or she must contact his or her supervisor as soon as is reasonably possible. The supervisor, in his or her discretion, may require a medical excuse for any

absence due to a claimed illness.

Any grant of such leave in excess of two (2) working days must be supported by a medical certificate from either a physician, family nurse practitioner or an Indian practitioner. Female employees, upon certification by an attending physician, will be granted maternity leave to be taken in one increment. Maternity leave may be charged against sick leave, annual leave or leave without pay.

Infectious and Communicable Diseases

The following rules regarding infectious and communicable diseases will be in effect during any state of public health emergency:

(a) The Tribe is committed to providing a safe and healthy work environment, free of health hazards. This includes protecting employees from communicable and infectious disease spread in the workplace during a state of public health emergency. Tribal employees who believe that they have been exposed or have been diagnosed with a communicable or infectious disease have an ethical and legal obligation to minimize the spread of that disease and are required to immediately self-report the diagnosis to his or her immediate supervisor. Failure to immediately notify the supervisor and/or knowingly expose others may result in further disciplinary action including termination.

(b) If an employee is exhibiting symptoms of a communicable or infectious disease while in the workplace, the Tribe reserves the right to require testing and a health care provider's medical clearance before allowing the employee to return to work.

(c) Due to the nature of communicable disease, employees who have been diagnosed, exposed to, or show signs of significant contagious diseases, whether symptomatic or not, should contact his or her medical provider for further evaluation and/or before returning to the workplace. Supervisors shall report all necessary information to the Director of Human Resources. Every effort will be made to ensure confidentiality of information received as a part of this policy and to protect the privacy of all parties involved. Sharing information of an employee's self-report of diagnosis of any communicable or infectious disease and/or any medical information relating to the diagnosis is strictly prohibited and may be grounds for disciplinary action including termination.

Alcohol and Drug Abuse

Illness due to alcohol or drug abuse: If an employee is absent from work for more than three (3) days as a result of the effects of alcohol or drug abuse, sick leave shall not be granted, and the employee shall be given leave without pay; provided, however, that if the employee is institutionalized in a licensed institution, sick leave shall be granted. For purpose of this paragraph, a medical certificate must be signed by a medical doctor and the signature of a traditional Indian Practitioner shall not be acceptable.

Transfer of Sick Leave

When an employee retires or leaves MBCI employment, he may transfer up to 100 hours of accrued sick leave to any employee of the Tribal Government Services Division. Any other accrued sick pay or accrued sick leave is placed into the Leave Bank for use by other employees of MBCI.

Leave donated shall be valued according to its cash value based on the lowest rate of pay applicable to the leave at the time it is accrued. Leave donated will be distributed to the recipient employee in accordance with its cash valuation up to 100 hours of sick leave based on the cash value of the leave to the recipient employee based on the recipient employee's rate of pay in effect at the time the leave is distributed to the recipient employee. The result is that the number of hours of leave donated may differ from the number of hours received if the rate of pay of the donor and the recipient are different.

Employees should be aware that there are tax consequences associated with the donation of accrued paid leave. The tax consequences for leave donated through a bona fide employer sponsored leave sharing plan – such as the Voluntary Leave Transfer Program set forth in Part XV of this Policy -- are discussed in Part XV of this Policy. The donation of sick leave from one employee to another outside of the Voluntary Leave Transfer Program is not through a bona fide employer sponsored medical leave-sharing plan and therefore results in different tax consequences. Specifically, the dollar value of all leave donated outside of the Voluntary Leave Transfer Program is includible in the donor employee's gross income under § 61 of the Internal Revenue Code, and is also "wages" of the donor employee for employment tax purposes. *See* IRS PLR-152644-06 at 7 (Feb. 9, 2007); *see also* IRS Rev. Rule 1990-29. With regard to the recipient employee, he or she is not treated as the recipient of "wages" subject to employment tax. *Id.* at 7. However, the leave received may be includible in the recipient employee's gross income under § 61, and each employee should seek independent counsel on the issue. *See id.* The Human Resources Department shall make a reasonable effort to notify employees of the taxability of the donation and/or receipt of leave outside of the Voluntary Leave Transfer Program.

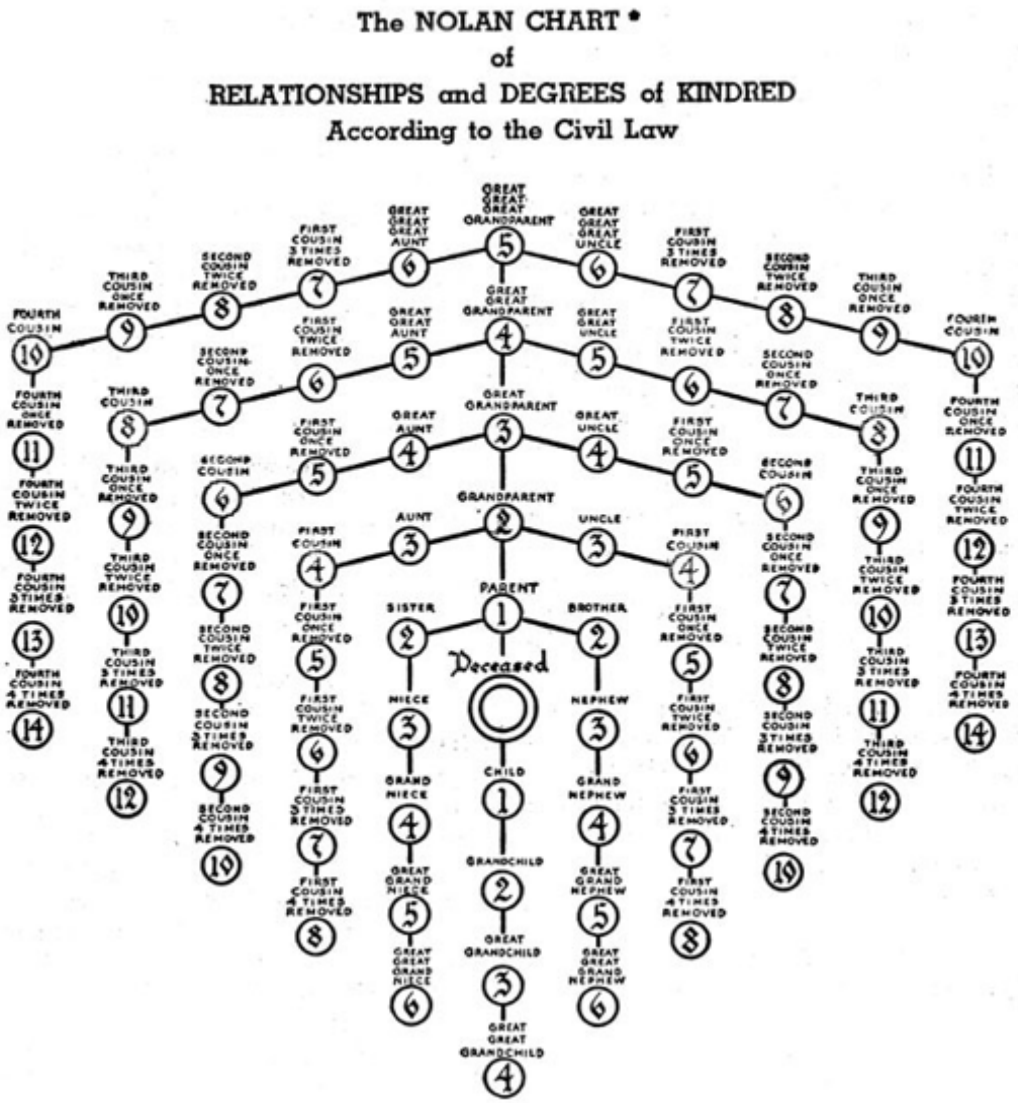
D. <u>Bereavement Leave</u>

Employees are entitled to two (2) paid days of bereavement leave for the death of immediate family members as the term is defined in the sick leave policy. Bereavement leave must be approved by your supervisor and may be used in one (1) day increments not later than three (3) work days after the funeral or memorial service.

Any employee who is an ordained minister, and who registers as such in the Office of Human Resources, may receive up to eight (8) hours of Administrative Leave per bi-weekly pay period for conducting the funeral services of MBCI members. Documentation must be provided to the employee's supervisor in the form of an obituary or funeral program which lists the minister's name as having conducted the funeral service. The documentation should be attached to the Time and Attendance records.

E. Personal Leave

Education Contract Employees are eligible for personal leave. Such leave shall accrue at the beginning of each contract period at the rate of two days for the first three years of employment, three days for the next seven years of employment, and seven days thereafter. In addition, school employees who have more than three years continuous employment with MBCI and who have a contract period more than the standard school year will accrue additional personal leave hours. The additional personal leave hours will accrue, at the same rate as other regular full-time employees accrue annual leave, during pay periods worked that are not included in the standard school year. Educational Contract Employees will be compensated for unused personal and annual leave, subject to the same limitations as other non-contract employees.



Encircled numerals indicate degree of kindred to the deceased. Straight lines indicate the lower person as issue of the next preceding higher person. Full cousins are indicated in red (shaded). On the chart, all cousins above full cousins are *cousins in the ascendency*, all below are *cousins in*

the descendency. Consult State Statutes of Descent and Distribution for rights of persons of each relationship and degree of kindred.

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XIII. FMLA (FAMILY AND MEDICAL LEAVE POLICY)

MBCI complies with the Family and Medical Leave Act of 1993 (the "Act" or "FMLA"). The following briefly describes eligibility and notice requirements for those employees needing to take FMLA leave. For further information, please contact the Office of Human Resources.

A. Eligibility

To be eligible for FMLA leave, an employee must have at least one (1) year of service with MBCI, have worked at least 1,250 hours during the twelve (12) month period preceding the commencement of the leave, and must work at a location employing fifty (50) or more employees in a seventy-five (75) mile radius.

B. Description of Time-Off Benefit

An eligible employee is entitled to a total of twelve (12) workweeks of unpaid leave subject to subsection F during a twelve (12)-month period for one (1) or more of the following reasons:

1. The birth of a son or daughter and to care for such child;
2. The placement of a son or daughter with the employee for adoption or foster care;
3. To care for a spouse, or son, daughter, or parent, if such spouse, son, daughter or parent has a serious health condition; and/or
4. A serious health condition that makes the employee unable to perform the functions of his or her position.
5. A qualifying exigency arising out of the fact that a spouse, son or daughter (of any age), or parent is a covered military member, is on active duty (or has been notified of an impending call or order to active duty) in the National Guard or Reserves or is a retired member of the Armed Forces or Reserves and has been notified of an impending call or order to active duty in support of a contingency operation.

An eligible employee who is the spouse, son, daughter, parent, or next of kin of a current service member of the Armed Forces, including the National Guard or Reserves, may take up to 26 weeks of Military Caregiver Leave to care for a service member who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. This 26 weeks of Military Caregiver leave is measured in a "rolling 12-month period." The amount of time which may be taken for Military Caregiver Leave will be determined by the balance in an employee's 26-week leave entitlement period, measured backward from the date of the employee's most recently