



## **Tobique Community Operational Plan**

# **Tobique First Nation Personnel Policy**

**This document shall be considered a “living” document subject to changes, edits and additions. This is an ongoing process to achieve Tobique First Nation objectives. This document provides policies and guidance assisting employees and Council in fulfilling Human Resource responsibilities and in creating higher accountability and transparency entitled to Members.  
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# Tobique First Nation Personnel Policy

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# Tobique First Nation Personnel Policy

## Policy Objective

The Tobique First Nation Personnel Policy is to achieve consistent application, continuity and understanding of the terms and conditions of employment for all employees of the organization.

## Introduction

This section provides policies and procedures in the area of the Tobique First Nation Employee Administration. Clearly defined personnel policies provide procedures to follow for Tobique First Nation Employee Administration, ensure that policies are consistent.

Decision making processes are clear and open for observation and participation by The Tobique First Nation employees. **Transparency** is woven throughout.

**Disclosure** ensures all plans, reports and information relating to community business and services are available to those who request it.

**Redress** builds in checks and balances and allows members a formal process to appeal.

## Application

While taking into consideration its particular circumstances and resources it is the policy of the Tobique First Nation Band to base its terms and conditions of employment on those of the Government of Canada and of the relevant federal and applicable provincial labour standards.

The terms and conditions of employment of Tobique First Nation employees, including Executive, Management, and Staff personnel are as set out in each individual employee's employment contract agreement (if applicable) and will be supplemented by this Tobique First Nation Personnel Policy Guidelines ("Community Operations Manual") and other relevant policies.

## Policy Requirements

The terms and conditions of employment will be applied on a mandatory or discretionary basis as indicated within specific policies.

Where the terms and conditions of the present Tobique First Nation Personnel Policy may be in conflict with those set out in the relevant individual employee's employment contract or any existing departmental policies in place, (Neqotkuk Health Programs and Services, Tobique

Gaming Center Personnel Policy, Maliseet Gas Bar and Convenience Store Personnel Policy, Healing Lodge Personnel Policy), the latter will apply.

### **Authority**

**All policies require the approval of the Council prior to implementation.** The adoption of new policies and the amendment, revision, or deletions of existing policies are the responsibility of Chief and Council, to be done so at a duly convened meeting, supported by a Band Council Resolution.

The Band Administrator's (CEO/Band Manager) receives delegated authority from the Council to create and change policies. When policy is created or changed, all employees will be advised of the change and the Policy Manual will be updated accordingly following approval of Chief and Council. All previous versions of Tobique First Nation Personnel policies are superseded.

The Band Administrator is responsible for updating the policy and its guidelines in respect of new or changing policy and is also responsible for providing policy interpretation and guidance to managers and employees.

### **Monitoring**

The Band Administrator is responsible for the development and application of the Policy Manual and will monitor departmental performance by:

- Periodically reviewing departmental application of TFN policies and guidelines; and
- Reviewing audit and evaluation reports on the application of the policies and guidelines.

### **Enquiries**

Enquiries about the Community Operations Manual for the Tobique First Nation Personnel Policy, unless stipulated otherwise, should be referred to the Band Administrator.

### **Application and Scope**

The present Policy applies to all employees of the Tobique First Nation Band including Council appointees designated for coverage under this policy, all of whom shall hereinafter be referred to as "employees".

Where the terms and conditions of the present Policy Manual may be in conflict with those set out in the relevant individual employee's employment contract, the latter will apply.

## Definitions

“aboriginal” means a person identified as such under Article 35 of the Constitution Act (1982) and includes the Indian, Inuit and Métis people of Canada.

“appointee” means a person appointed by the Council to be an employee of the TFN

“basic pay” means the rate of pay established for a position classification within the Tobique First Nation Band

“common-law spouse” includes same sex and opposite sex individuals where the employee has signed a declaration or affidavit that they have been living in a common-law relationship or have been cohabiting for at least twelve (12) months. The period of cohabitation may be less than twelve (12) months where the employee has claimed the common-law spouse’s child/children for taxation purposes

“continuous service” means uninterrupted regular employment with the Tobique First Nation Band.

“dependent” means any of the following:

1. One spouse of an employee;
2. Any unmarried child, stepchild, legally adopted child or legal ward, mainly supported by the employee who is a dependent for income tax purposes if applicable and who is:
  - (a) under age nineteen (19) years; or
  - (b) of any age but who, because of mental or physical infirmity, is accepted as a dependent for income tax purposes if applicable; or
  - (c) under age twenty-five (25) and in full-time attendance at a school, university or vocational institution which provides a recognized diploma, certificate or degree. Full-time attendance means enrolment in the minimum number of credit courses specified by the institution to be considered full-time or if not specified by the institution, enrolment in a minimum of fifteen (15) hours of classroom instruction per week each school term

“employee” means a person employed by the TFN, including an appointee. An independent contractor or consultant or an individual employed through an agency does not qualify as an employee. An employee can be full-time or part-time, whether permanent, term or casual. Designation of employees is as follows:

full-time: An employee who regularly works seven (7.0) hours per day and thirty-five (35) hours per week

part-time: An employee who regularly works less than seven (7.0) hours per day, or thirty-five (35) hours per week. An employee who works more than fifteen (15) hours but less than twenty-five (25) hours per week

permanent: An employee who has no specified end date to his/her employment relationship with the organization as per the employee's letter of employment

term: An employee whose term of employment has a specified end date to employment has been identified in the TFN's letter of employment or a letter of extension of employment. Employment is typically over three (3) months

casual: An employee whose term of employment is also for a specified period which is under three (3) months. An employee who works less than fifteen (15) hours per week.

“field status” applies to employees who are normally required to work away from their point of assembly and who, on a day-to-day basis, do not work in an office, institution, plant, or other similar fixed location which is their normal point of assembly

“management employee” means an employee who is excluded from certain portions of the applicable Employment Standards Act or Canada Labour Code of the province in which the employee's position is located and whose duties and responsibilities are considered as “managerial “ and who has responsibilities for supervising financial or human resources

Management employees include:

1. a person employed in an executive capacity such as the Band Administrator; or
2. a person such as any Director or Manager whose principal employment responsibilities consist of supervising or directing, or both supervising and directing, human or other resources

“no break in service” occurs when an employee moves from his/her position or Tobique First Nation's organization to a new position or the Tobique First Nation's organization on the next available working day, taking into account shift changes, weekends, scheduled vacation, statutory holidays, scheduled earned time off or any other approved paid scheduled time off

“staff employees” are employees who are not classified as “management employees”

“straight time” means the hourly rate of basic pay

## **Recruitment, Selection, and Appointments**

The following policies and procedures are followed for the recruitment and hiring of the Tobique First Nation employees.

1. All permanent jobs are advertised by means of notices and the media, wherever possible. Notices issued by The Tobique First Nation Administration are posted in places accessible to all First Nation Membership, and may be made in writing to suitable advertising resources, locally, provincially, or nationally.
2. Notices include job description, minimum qualifications, salary or salary range, and closing date for applications.
  - a) Applications for employment shall be submitted on the Tobique First Nation application forms, provided by the Tobique First Nation Administration office.
  - b) Applications shall include information on personal history, previous experience, references, and any other relevant information applicable to the position.
  - c) The Council may appoint a Selection Committee to screen applications.
  - d) The Selection Committee includes at least three senior administration officials and will review all applications.
3. The Committee Chairperson, who is the relevant Program Manager, the Band A and an additional Committee member, will independently check references of applicants who meet requirements for the position before interviews are scheduled.
4. Candidates who meet the requirements, standards, and qualifications for the position will be given the opportunity for employment interviews. Competitions will have deadlines, and applications by candidates must be received by the day of the competition deadline, in order to qualify. Employment positions will be filled from within the reserve, if a candidate from the reserve has the necessary skills.
5. Wherever possible, it is advisable to promote current staff members to more responsible positions. Such promotions require majority decision of the Council, and should be based on the individual being considered for promotion having demonstrated capabilities for the job.

In the event that there is a suitable Tobique First Nation staff member currently employed in another department, a transfer may be approved, with a majority decision of the Council.

6. Members of the committee or Council who are directly related to applicants (members of their immediate family) cannot participate in the decision related to that applicant, nor vote on that candidate's acceptance or rejection.
7. The approval of the successful candidate by the Selection Committee shall be recorded in the committee minutes, outlining the name, position, salary and starting date.
8. Steps in the selection of employees shall be as follows:

- a) The Secretary shall keep an up-to-date list of all applications received. For any position, and shall keep all applications in an individual file. These will be considered (and stamped) confidential, and will be kept in a locked filing cabinet. The Supervisor in charge of the program shall assist the Selection Committee in preparing a qualifying list from applications received. (The Committee shall review all applications received). Two members of the Selection Committee shall independently check the references of the qualifying applicants.
- b) Committee members will interview applicants who have been pre-screened, and recommend who should be hired. The recommendation for the chosen candidate shall be subject to approval by the Council.
- c) The Tobique First Nation Council will confirm the offer and acceptance by a motion at the next Council meeting, and the Chief will ratify the appointment by signing the “Confirmation of Employment” form.
- d) If the Council rejects the Selection Committee’s recommendation, their reasons will be included in the Minutes of the Council’s meeting dealing with the issue.
- e) The successful applicant(s) will be notified as soon as possible, first by telephone, and then provided with a written offer of employment, signed by the First Nation Manager. This written offer of employment shall include the job title, the starting salary, the date employment is to start, a copy of the job description, and any other information relevant to the appointment.
- f) The successful applicant must sign the “Acceptance of Employment” within a designated period of time stated on the offer.
- g) Notification to Applicants – Unsuccessful applicants will be notified in writing as soon as possible after the successful has accepted the employment position.

## **Employee Salaries**

1. The starting salary of new employees will be stated in the employee’s offer of employment. Salary will commensurate with the employee’s experience and education, and will also take into account the level of responsibility of the position, and the budget appropriations of the Council.
2. The Tobique First Nation Council may approve a salary range/scale for each position, which will usually approximate salary levels for similar positions in the area.
3. Employee salaries will be reviewed on an annual basis in March, for implementation beginning April 1<sup>st</sup> (with the exception of teaching staff and bus drivers, whose pay schedules will be reviewed and approved by August 15<sup>th</sup>, and will take effect on September 1 of each year). Salary adjustments will be determined on the basis of staff performance reviews, as well as available funding.

## **Employee Code of Ethics**

Code of Ethics outlines what is expected of the Tobique First Nation employees in terms of general attitudes, confidentiality, etc., in addition to their specific job responsibilities.

1. Carry out the duties of their positions conscientiously, loyally, and honestly, remembering that the primary work task is to serve The Tobique First Nation membership.
2. The integrity and dignity of the Tobique First Nation, and its programs, government and staff are to be maintained at all times.
3. Be prompt, courteous, and temperate in the performance of their duties.
4. Use initiative to find ways of doing their work more efficiently, effectively, and economically.
5. Develop a positive attitude in dealing with fellow employees, other the Tobique First Nation members, and the Council.
6. Follow Supervisor's instructions attentively, be cooperative, and work as team members with other the Tobique First Nation employees.
7. During work hours, devote themselves to their duties of employment, and adhere to the Tobique First Nation policies and procedures.
8. Recommend changes of policy to senior staff, when employees feel these are advisable.
9. Conduct themselves while on duty and in public in a manner that will bring credit to themselves, their department, and the First Nation.
10. Show respect for authority and jurisdictional structures of the Tobique First Nation, Council.
11. Work continually towards self-improvement, through self-evaluation and training.
12. Be on the job punctually each day, unless there is a valid reason for absence or lateness, in which case the employee will contact his/her immediate supervisor at the start of the working day, and give an indication of when he/she expects to return to work.
13. Maintain a satisfactory standard of dress and general appearance, appropriate to their duties.
14. Profanity will not be accepted in dealings with the public; staff should be courteous and polite towards each other and the public.
15. Use information obtained on the job for the intended purpose only, not for their own personal interests.

16. Use equipment, property, or supplies which are owned or rented by the First Nation for authorized purposes only.
17. Protect and care for all First Nation property entrusted to them, and report to the relevant senior employee any faulty equipment which requires repair.
18. Refuse any fees, gifts, or other tangibles offered in reward for duties performed through their employment positions.
19. Do not publicly criticize other employees, or other policies of the Council or individual departments; provide constructive criticism and suggestions through proper channels, and seek to make the workplace as harmonious as possible.
20. Do not consume alcohol or take drugs (except for medical purposes) during the work day.

### **Social Media Policy – Employee Conduct**

Over the past few years the use of Social Media has become a forum for employees to discuss various issues surrounding their lives, work being one of them. This has prompted us to address this issue and we will be including it as part of our existing policies. Please read the following as this is our expectation of all employees, if you have concerns or questions please feel free to contact the Band Administrator or Director/Manager/Supervisor for further clarification.

1. All employees in any internet communications must be respectful to the Tobique First Nation Leaders, employees and members. Any employee who uses a personal website or blog to disparage the reputation of TFN, its practices, its leaders, employees or members will be subject to serious discipline.
2. Unacceptable non-work related activities include downloading, viewing or sending, posting or blogging insulting, disruptive, offensive, derogatory messages or material. Examples of forbidden transmissions may include sexually explicit messages, jokes or cartoons, unwelcome propositions or love letters, ethnic or racial slurs, personal attacks or any other messages that may be construed to be harmful or disparaging of others based on their sex, race, disability, national origin or religious beliefs.
3. Social Networking: Tobique First Nation respects that employees have the right to engage in social networking using their own personal computers on their own time, but in doing so employees must:
  - a. Ensure that they do not give the impression that they are acting as a representative or spokesperson of Tobique First Nation
  - b. Must not communicate any private information about any employee or band member

- c. Must not communicate any confidential information relating to the Band Owned Businesses or Band Administration
  - d. Not record, take pictures or make video tapes of other people while they are acting as employees of the Tobique First Nation or post them electronically on social networking sites.
  - e. Must not post complaints regarding other Businesses or Departments. If you have a valid concern or complaint, please see the appropriate Manager or Director of that particular department.
4. Employees of Tobique First Nation & all of its Divisions have a duty of loyalty to the First Nation as their employer. That duty of loyalty includes the obligation not to post or provide, even during non-business hours, information of Tobique First Nation or its businesses that has not been approved for disclosure.
5. Employees must never misrepresent any facts in writing related to the business or dealings of Tobique First Nation. Employees must at all times conduct themselves with dignity, honour and respect in their comments about actions or decisions of the Tobique First Nation, members, employees or elected leadership.
6. Anything on the internet can be used as grounds to discipline an employee, no matter whether the employee wrote it from work or outside work. There will be consequences for any information that negatively reflects on TFN or that otherwise is in breach of our policy.
7. Employees need to understand that anything that is posted on line is public. The privacy rights for employees posting information to the internet are minimal and what is posted online may result in disciplinary measures up to and including dismissal for just cause.
8. Employees who violate this section may be subject to disciplinary action up to and including “Dismissal for Just Cause” under this new section of the policy manual. This will apply to the Tobique First Nation Band Programs & Services as well as Tobique Gaming (Tobique High Stakes and VT), Tobique Bingo, Maliseet Gas Bar and Convenience Employees and Administration, & any new locations under the realm of Tobique First Nation

### **Orientation and Probationary Period**

New employees are provided with an adequate amount of time to orient themselves, by looking through appropriate material and background files, etc. and training with their immediate Supervisor and fellow employees. If possible, some overlap time should be provided to allow the new employee to train with the previous employee in that position. The Tobique First Nation staff should cooperate fully with the new employee during this orientation process.

1. All new employees shall be on probation for the first six months of employment. At the end of this six month probationary period, the Supervisor will advise the employee whether or

not he/she has been promoted to permanent staff, based on a satisfactory level of performance and the budgetary appropriation for the position.

2. A minimum of one, and preferably two performance assessments shall be conducted by the employee's immediate Supervisor during the probationary period (first six months). At the time of the assessment, the Supervisor shall discuss the performance assessment with the employee, and outline any remedial action necessary. Both the employee and the Supervisor will sign the assessment. If the employee wishes to add his/her own observations/comments, these will be included in the employee's personnel file. The First Nation Band Administrator, Program Manager, and the Council will also review the evaluation at the end of the six month period. Within this probationary period the Tobique First Nation Council or delegated authority may terminate employment at any time.
3. An evaluation form approved by The Tobique First Nation shall be used by the evaluator.
4. At the end of the probationary period (first six months), if the employee's performance is satisfactory, the immediate Supervisor may recommend that the employee be placed on permanent status.
5. If the employee's performance is unsatisfactory, the immediate Supervisor may recommend the employee be placed on an extended probation period, for the length of time required to fully evaluate.
6. Employee performance evaluations, like all personnel files, shall be considered confidential, and kept in locked filing cabinet. Each employee will receive a personal copy. All surplus copies of these evaluations shall be destroyed.

### **Temporary Positions and Assignments**

1. The authorized authority may select staff to fill temporary positions for a period of 6 months or less. Such temporary positions may not be renewed or extended. If such a position is reclassified to full-time or permanent, an open competition will be held.
2. Employees who are required to perform the duties of a higher position on a temporary basis, for a period of at least 20 consecutive working days (4 weeks), will be paid at the same rate as that of the higher position, for the period in which they are on acting assignment

### **Employee Performance Review**

Employees are evaluated primarily on the basis of their job descriptions, as well as on their work plans. Employee attitudes towards their job and fellow employees, and their adherence to the Employee Code of Ethics are reviewed. Performance evaluations provide formal feedback to the employees with regard to how to improve performance, efficiency, etc. (Employees might also be asked at that time to make recommendations on how things might be improved in the department.) The evaluation provides an opportunity to praise employees who are doing a good

job. Any criticism of an employee's performance should be constructive, and use examples of specific events or assignments, rather than general "blanket statements". Professionalism should be stressed, rather than personalities.

1. Employees shall normally receive a performance evaluation at least annually. More frequent evaluations will be conducted for new employees, and may also be conducted for employees whose evaluations are below satisfactory level. These evaluations will:
  - a) help employees to evaluate and improve their performance,
  - b) improve understanding and communication between management and staff,
  - c) provide an opportunity to set employee work plans for the coming year,
  - d) provide an opportunity to discuss professional training and development workshops/options for the employees,
  - e) be considered for annual salary reviews,
  - f) for the basis of written employment references, when employees leave the employ of The Tobique First Nation.
2. At the time of the assessment, the Supervisor shall discuss the performance assessment with the employee, and outline any remedial action necessary. Both the employee and the Supervisor or Band Administrator will sign the assessment.
3. Employees who disagree with parts of their evaluations, or wish to add their own comments, may do so; these comments will be included in the employee's personnel file.
4. In the event of a disagreement between the employee and the Supervisor regarding the performance/evaluation review, the employee shall have the right to include the Band Administrator in the evaluation discussion.
5. Supervisors may request outside evaluators for assistance. Such evaluators must be approved by the Council.

## **Hours of Work**

### **A. General**

The following is a policy regarding hours of work for The Tobique First Nation Staff. The Tobique First Nation Council may alter the policy to fit the situation.

1. Official work hours will be set by the Council. The Council may decide to alter these hours as they see fit. For example, they may decide to change official work hours for the summer months.

2. The hours of work for full-time employees shall be from 8:30 a.m. to 4:30 p.m., Mondays through Thursday and 8:00 a.m. to 12:00 p.m. on Fridays, with one hour for lunch. The lunch period shall be from 12 noon to 1:00 p.m., unless as exception is authorized by the immediate Supervisor. Some employees, by nature of their employment positions, may be required to work different hours. These include teaching staff, capital contractors and carpenters, janitors and public works employees.
3. Thirty five (35) hours shall constitute a basic work week for The Tobique First Nation employees.
4. Flexible Hours: The Tobique First Nation Council management may wish to consider a more flexible system for work hours, by authorizing the compression or extension of the work week, where beneficial to The Tobique First Nation and the employee(s), provided that The Tobique First Nation's ability to operate effectively and to provide adequate services to The Tobique First Nation members are not hindered.
5. Employees are required to record starting and finishing times of daily work on forms provided by the administration. Supervisors will be responsible for signing/approving employee time sheets in their department, and submitting them to the Finance Officer prior to each pay period.
6. Two 15 minute breaks shall be allowed for all employees in the course of each full working day.
7. See attached appendix for specific business and program hours of operation.

## **B. Lateness or Absence**

1. Employees who will be late or are expected to call their immediate Supervisor/Manager within 30 minutes after the opening of the office.
2. Absent employees who do not notify their Supervisor/Manager shall be considered absent without reason, and will have salary deducted equivalent to the length of absence (with the exception of reasonable extenuating circumstances, subject to the discretion of the immediate supervisor).

## **C. Overtime**

1. All overtime must be approved by the Supervisor/Manager.
2. Overtime must be requested ahead of time in writing, and submitted to the immediate Supervisor/Manager for authorization and approval when possible; unauthorized overtime will not be considered valid, except in cases of emergency.

3. Employees are required to record starting and finishing times of overtime worked, on a special forms provided by the Administration. Supervisors will be responsible for signing/approving employee overtime sheets in their department, and submitting them to the Finance Officer prior to each pay period.
4. Management has the authority to question overtime, when necessary.
5. "Overtime" shall be classified as time over 44 hours per week, or work on scheduled holidays, as approved by the immediate Supervisor/Manager.
6. In lieu of overtime pay, employees shall receive time off, on the following basis:
  - a) Employees required to work over 44 hour work week shall take equal time off in lieu of overtime pay.
  - b) Employees required to work over 44 hours in any one work week shall take one and a half hours off for each overtime worked over 44 hours, in lieu of overtime pay.
  - c) Employees required to work on statutory holidays can take two hours off in lieu of pay for all hours worked up to a maximum of 8 hours. Call in(s) will receive 3 hours off per hour worked.
  - d) Employees required to travel after working, over 44 hours and in the line of duty, shall take equal time off in lieu of pay for each hour of overtime/travel time, (with the exception of conferences, seminars and workshops).
  - e) The scheduling of time off in lieu of overtime pay must be approved in advance by the employee's immediate Supervisor/Manager.
7. Employees defined as management staff shall be eligible for time off in lieu of overtime pay, to a maximum of three hours of overtime per week. Scheduling of time off in lieu of pay by management staff shall require the approval of the Band Administrator. The Band Administrator will require the approval of the Council before scheduling any time off in lieu of overtime pay.
8. Employees shall not be eligible to claim overtime for attending conferences, seminars, workshops, etc. during the course of their employment with the First Nation.
9. Overtime shall be kept on record with the Tobique First Nation Administration, and shall be taken within one month's time of the overtime being incurred, unless otherwise agreed upon between the employee, the immediate Supervisor, and the Band Administrator.
10. Employees taking time off in lieu of overtime pay shall first notify their immediate Supervisors/Managers, and receive approval in advance, before taking the time off. Program Managers require the approval of the Band Administrator prior to taking time off in lieu of overtime pay.

## **Designated Holidays**

1. The following days shall be designated holidays for all Tobique First Nation Employees:

### Statutory

- New Year's Day
- Good Friday
- Canada Day
- Labor Day
- Remembrance Day
- Christmas Day
- New Brunswick Day

### Discretionary

- St Ann's
- Aboriginal Day

2. If any of the above holiday falls on either a Saturday or Sunday, the following Monday shall be observed as a holiday.
3. The designated holiday schedule will be approved by the Council, either prior to, or early in the new fiscal year.
4. Cultural events may also be designated as holidays by the Council; staff are encouraged to assist in these events.
5. When a designated holiday falls within a period of vacation leave with pay, the holiday shall not count as a day of leave.
6. Provision shall be made for the submission of other holidays, where the Council and the majority of the employees agree to the substitution.
7. Employees required to work on a general holiday are entitled to two hours off in lieu of overtime pay for each hour worked.
8. In the event of an election, the Tobique First Nation employees who are entitled to vote will be allowed time off without pay to attend the polls.

## **Salary Administration**

Policies and procedures in the area of pay administration are identified in this section. In the setting of salary scales, or range of pay for a position, as well as designating a salary for a specific employee, the Tobique First Nation Council considers the following factors:

1. Salaries are roughly equivalent to pay ranges for similar positions at nearby reserves, or equivalent to salaries for work of equal value in nearby communities.
2. Pay commensurate with the qualifications and experience.

3. The employee's living situation, as well as taxation (tax-exempt status of The Tobique First Nation employees) may be taken into consideration.
4. Level of responsibilities of the position, including number of people supervised (if applicable), stress factors, etc.
5. The Tobique First Nation's revenues, budget, and allocations for the position/department.
6. All salaries shall be paid according to all terms and conditions of employment; annual salaries for employees shall be paid at the rate approved by the Council.
7. Employees are required to record starting and finishing times of daily work, including any overtime worked, on forms provided by the Administration. Supervisors/Managers will be responsible for signing employee time sheets in their department and submitting them to the Finance Officer prior to each pay period.
8. The policy for scheduling of employee payroll for full- time employees will be paid weekly. If the statutory holiday lands on a pay day payroll will be released the day before.
9. Employees are provided with a statement of earnings and all deductions made from their pay cheques.
10. Teaching staff, TA's, Janitors and Bus drivers will received their salaries pro-rated over the 12 month period, subject to the approval of the Council.
11. New pay schedules for teaching staff will be approved by the Council by August 15, and take effect on September 1 of each year.

**12. Salary advances**

Salary advances are not allowed.

**13. Statutory holiday benefits for casual employees:**

- a) If the employee would normally work on the day the holiday falls on (ie. Monday), the employee will be paid for the holiday at his/her usual daily rate of earnings, the same as the regular employees.
- b) If the employee has worked a minimum of two out of the last four weeks on the day on which the holiday fell (ie. two out of the last four Monday if the holiday fell on a Monday), then the employee should be paid for the holiday.
- c) Hourly rate employees will receive holiday pay at the rate of 4% of gross earnings. Holiday pay for hourly –rate employees will be paid annually, or upon termination of employment.

**d)**

**14. Severance Pay**

Severance pay will only be granted after just cause and after investigation and review by Council/Supervisor. Severance pay will not be granted to an employee for termination and under conditions of Section 4.14 - discipline policies.

## **Personnel Files**

### **A General**

1. Personnel files will be maintained on a current basis for all employees. These file will include such information as the employee's original application, date employment was started/terminated, original salary level and any subsequent increments. Signed copies of the employee's job description, Code of Ethics Contract, performance evaluations, personal vehicle usage contract (if applicable), current information on the employee's vacation and sick leave, etc.
2. Employees shall have access to their personal files, in the presence of the Band Administrator or other authorized member.
3. Employees will receive personal copies of their written job descriptions, any subsequent additions or alterations to their job descriptions, the employee Code of Ethics Contract, and any other relevant information.

### **B Confidentiality of Personnel Files**

1. All First Nation employee personnel files shall be considered confidential. They will be stamped confidential, and kept under lock and key in a filing cabinet in the Administration Office.
2. Employees who breach their Confidentiality Agreement by releasing confidential information, which includes information contained in personnel files, shall be at risk of having their employment with the Tobique First Nation terminated.

## **Staff Development**

The Tobique First Nation will provide opportunities for the professional development of its employees, by offering internal staff training and encouraging staff participation in external training opportunities, and in relevant meetings, workshops, seminars, and conferences.

Staff members share with The Tobique First Nation the responsibility and obligation to advance their own skills and knowledge beyond that attained in their basic training programs. The Council will encourage staff members who wish to pursue studies or take short courses directly related to their present positions with the Tobique First Nation. Education leaves of absence, with or without pay, may be granted by the Council for a maximum of 12 months. Such leave

must be applied for as detailed in the section on Education Leave. With the approval of the Council, employees may be required to sign a contract guaranteeing to stay in the employment of The Tobique First Nation for a minimum specified period of time after the training, or may be required to pay the First Nation back for the costs of the training.

- 1.) Lack of attendance for training or workshops will require reimbursement.

## **Employee Leave**

This section provides policies and procedures for various types of employee Leave.

### **1. Vacation Leave**

- a) Unless otherwise earned or negotiated, permanent employees shall earn vacation leave at a rate of one and one-quarter days per full month of employment, which equals three weeks for each twelve full months of employment. Employees who begin work during the middle of the month should be entitled to leave credits, provided that they work 10 working days during that month.

An employee earns, but is not entitled to receive vacation leave with pay, within the first six months of continuous employment.

The Tobique First Nation Administration Department maintains a current record of holiday credits for all First Nation employees. Full-time employees should schedule their holidays in the fiscal year in which they are earned. (The First Nation's fiscal year is from April 1 to March 31). A maximum of 5 days' vacation leave may normally be carried over into the next fiscal year, with the permission of the Band Administrator. (Additional leave may be carried forward, with the Band Administrator's permission, for special purposes).

No vacation pay will be paid, in addition to an annual salary, to full time employees. Employees who are casual (hourly rate), or who work less than a six month term will receive holiday pay at a rate of 4% of gross earnings. (Employees are entitled to request holidays after six full months of continuous employment.)

- b) Employees should attempt to provide as much advance notice as possible to their Supervisors/Manager in requesting their vacation time. Three to six weeks' notice should be provided, in writing. Under unusual circumstances, the Band Administrator may approve holidays on shorter notice.
- c) In granting vacation leave, subject to the operational requirements of the Tobique First Nation Administration, reasonable efforts will be made:
  - i. to grant vacation leave to employees for at least two consecutive weeks, if earned and requested;
  - ii. to grant vacation leave after six months of employment, to the extent of credits earned, if so requested by the employee and approved by the immediate supervisor/manager.
  - iii. not to disturb employees, or recall them to duty, after they have proceeded on leave.

**d)** When an employee ceases to be employed, the employee will be paid earned holiday pay due. If the employee dies while serving as an employee of the First Nation, the employee's estate shall be paid earned holiday leave (in addition to any salaries owing).

**e) Scheduling of Vacations**

The Band Administrator shall maintain a chart of vacation schedules for the Tobique First Nation staff. This will help to ensure that vacations are scheduled in a way which will enable the Tobique First Nation Administration to meet their responsibilities during staff absences.

The Council, in consultation with the employees, and band administrator reserve the right to schedule vacation leave.

**f)** When an employee will be going on vacation, steps should be taken to ensure that:

- i. Whenever possible, another employee is trained to take over key functions of the position. To facilitate this, each employee should prepare a procedures list regarding their daily, weekly, and monthly duties. Most of these should be covered in the employee's job description. However, special information, such as which file a particular form can be located in, etc., may be useful to the employee who is required to "stand in".
- ii. Important responsibilities that are time related (i.e. a report which will be due to a funding agency), should be taken care of before the person responsible is scheduled to leave on vacation.

## **2. Sick Leave**

This section provides policies with regards to staff sick leave.

- a)** Sick leave shall be earned at the rate of one and one-quarter working days per month.
- b)** Sick leave may be granted with pay when an employee is unable to perform work duties due to illness or injury, provided that the sick leave is justified, and the employee has the necessary sick leave credits.
- c)** An employee must produce a doctor's certificate after three consecutive days of illness, or upon management's request.
- d)** An employee will receive sick leave with pay only for the maximum number of days of accumulated sick leave (to a maximum of 15 working days.)
- e)** The Tobique First Nation Council reserves the right at all times to request proof of illness.
- f)** The Band Administrator shall be authorized to allow advanced use of sick leave credits by an employee, up to 15 days, subject to a request by the employee's Supervisor/Manager; however, if the employee's position with the Tobique First

Nation ceases before the credits are obtained, the employee will be required to reimburse the Tobique First Nation for the value of the unearned sick leave, and the required amount due will be deducted from the final pay cheque.

- g)** Recognized holidays which fall within the period of sick leave will not be charged to the employee's accumulated sick leave.
- h)** If the employee becomes ill and the illness persists beyond 15 days, the employee should apply for short term disability benefits and/or to the employment Insurance Commission.
- i)** Employees suffering from illness or an accident which causes them to be unable to work for a considerable projected period of time, due to physical or mental incapacity, shall be required to apply for a Leave of Absence for the estimated time that they will be unable to work. The Tobique First Nation Administration shall, at its discretion, be able to fill the position on a temporary or contract basis until the previous employee is able to return to work.
- j)** Permanent physical or mental incapacity, as a result of illness or accident, which prevents the employee from performing previous employment duties, shall be considered just cause for terminating employment with the Tobique First Nation. However, if the employee is still able to perform employment duties of a different type, attempts will be made to transfer the employee to another suitable position within the Tobique First Nation's operations.
- k)** On termination of employment, no financial compensation shall be provided for accumulated sick leave credits.

### **3. Compassionate Leave**

- a)** Employees may request and obtain compassionate leave of up to 3 days paid, non-accumulative if there is serious illness in the immediate family, with the approval of the Band Administrator.
- b)** "Immediate family" shall be defined to include one's spouse, son daughter, foster child, mother, father, sister, brother, grandmother, grandfather, parent-in-law, sister- or brother-in-law, grandchild, or parent surrogate by tradition. Common-law marriages are recognized for employee leave purposes.

### **4. Bereavement Leave**

- a)** Employees who are absent from work as a result of death in the immediate family may use up to 10 consecutive days of paid bereavement leave, with the approval of the Band Administrator.
- b)** Authorized authority may grant bereavement leave for an employee who must perform an official function at a funeral for an individual who is not a member of the immediate family and shall be entitled to one day's bereavement leave. If travel is required, up to two days additional leave may be approved, with the permission of the Band Administrator.
- c)** Leave may be granted to a minimum of 4 hours for a funeral.

## 5. **Maternity Leave**

- a) An employee shall be eligible for up to 52 weeks leave without pay, provided that the application for leave is made at least six weeks prior to the commencement of leave.
- b) The employee may require a doctor's certificate if she wishes to work up to the expected date of delivery.
- c) The employee will be provided with advice by the Tobique First Nation administration regarding employment insurance benefits during maternity leave.
- d) The employee is entitled to return to her duties within six weeks of delivery, or before, if her attending physician approves.
- e) Following an employee's return after a maternity leave, the Tobique First Nation will have the employee return to the former position if leave is less than 2 years.
- f) A 2 week written notice will be required prior to return.

## 6. **Child Care Leave**

An employee intending to take a Child Care Leave shall

- provide the Employer with a certificate of a medical practioner specifying the date upon which delivery will, in the medical practioner's opinion, occur or the date upon which the birth has occurred, and
- in the absence of an emergency, give 4 weeks written notice to the Employer of the commencement date and duration of the leave

## 7. **Adoption Leave**

With prior approval from the Band Administrator, an employee may be provided with up to three days with pay to facilitate adoption proceedings.

## 8. **Marriage Leave**

Employees who have completed at least six months of continuous service with the Tobique First Nation, and who provide to the Band Administrator with at least 20 days' notice prior to the requested date of leave, may be granted with pay up to five working days for the purpose of getting married. This leave will be granted only once in a time life.

## 9. **Injury on Duty Leave**

- a) Employees who are unavailable for work, due to injuries suffered on the job, shall receive pay benefits during their absence through the insurance company providing the Tobique First Nation employees with disability coverage.
- b) The Band may continue to pay the employee until coverage commences with the understanding that any monies advanced from the band to the employee while the employee waits for coverage commencement is returned in full to the band.
- c) A Doctors note is required approving return to work.
- d)

## 10. Education/Professional Leave

- a) Permanent employees of the Tobique First Nation may be granted short-term leave for educational courses related to their duties, with full pay and travel assistance granted resources are available.
- b) Employees should apply to the Tobique First Nation Council at least three months prior to the educational leave; approval must be recommended the Band Administrator and approved by the Council.
- c) Applications shall provide all relevant details regarding the training/course/workshop (letter of acceptance, descriptions of the training/course/workshop and cost related).including how it will benefit the applicant's professional development, and improve performance/abilities relative to the employment with the Tobique First Nation.
- d) Professional examination leave may also be granted with pay and travel assistance, to enable employees to sit for professional examinations.

## 11. Court Leave

Court leave with pay may be granted to employees by the Band Administrator under the following conditions:

- a) when the employee is subpoenaed to appear as a witness or to serve on a jury; or
- b) if the employee must appear in court as an official delegate for The Tobique First Nation Council;

in instances where an employee is required to appear in court for personal reasons, either as a Plaintiff or as a Defendant, leave shall be either without pay, or chargeable against accumulated holiday credits.

## 12. Voting Leave

Employees who are eligible to vote in First Nation, Provincial and Federal elections, and whose names appear on the voter's list, shall be granted:

- a) sufficient time off to allow them four (4) full hours prior to the polls closing, to vote on Federal elections;

- b) sufficient time off to allow them three (3) full hours prior to the polls closing, to vote on Provincial elections;
- c) sufficient time off to allow them three (3) full hours prior to the polls closing, to vote on First Nation elections;

### **13. Personal Leave With Pay**

Leave with pay may be granted for other valid reasons, subject to approval of the employee's supervisor and the Band Administrator. Up to 3 days annually non-accumulative.

### **14. Leave Without Pay**

Employees may apply to Council to be granted leave without pay. The reason and duration of the leave request must be clearly indicated on the application and recommended by the Band Administrator.

## **Discipline Policies**

“Discipline” is defined as “a system or rules of conduct”, as well as “the order maintained and observed among persons under authority”. The following disciplinary policies are a guide for the Tobique First Nation Supervisors/Managers and employees to ensure and promote order, efficient control, and acceptable conduct.

### **1. Causes for Disciplinary Action or Discharge**

An employee may be disciplined or discharged\* for the following reasons:

- a) Incompetence, incapacity, or insubordination in the performance of duties;
- b) Abandonment of position without good cause and without notifying the immediate Supervisor/Manager;
- c) Misconduct in terms of attendance, work performance, or personal behavior;

### **2. Disciplinary Steps**

For the purposes of maintaining staff discipline, there are four steps taken in disciplinary action: oral reprimand, written reprimand, suspension, and discharge.

In some cases, it may be necessary to bypass one or more of these steps, depending on the seriousness of the case. However, except in unusual circumstances, employees will not be discharged unless they have had a previous caution in writing, and the opportunity to correct their shortcomings or breaches of discipline.

#### **a) Verbal Reprimand**

The immediate supervisor will give the employee a verbal reprimand in private for minor infractions or misdemeanors, and emphasize the need for improvement. A plan for corrective behavior will be jointly worked out to find constructive ways of overcoming the difficulty. The discussion will hopefully result in the employee agreeing to correct the unacceptable behavior.

**b) Written Reprimand**

In cases where, within a reasonable period of time, all verbal reprimands have not produced the desired effect, the employee will again be interviewed, reminded of the previous reprimand, and told that conduct or performance is still unsatisfactory, and that a written reprimand will be issued that day by the supervisor/manager. Again, the objective is to encourage the employee to improve performance of behavior.

The employee will be given the opportunity to make explanations, either orally or in writing, in order to ensure that the situation is clearly understood on both sides. The employee's written explanations will be retained in the personnel file. Such a request will be granted if the employee's behavior or performance is now satisfactory.

**c) Suspension**

The Band Administrator and the employee's supervisor/manager may, with reasonable cause, suspend an employee without pay for up to one week. Suspension is an enforced, temporary absence from duty without pay.

"Reasonable cause" shall include, but not be restricted to: accumulation of two or more reprimands, absenteeism without just cause, gross insubordination (refusal to carry out work assigned by the supervisor), negligence, conviction of an indictable offense, or any action that creates an unsafe situation, or brings disrespect to the Tobique First Nation.

The Band Administrator will provide a written notice of the suspension, which will state the effective date, the duration and reason for the suspension. The employee may appeal the case to an Appeal Committee. If the Appeal Committee upholds the appeal, the employee shall not suffer any loss of pay as result of the suspension.

**d) Discharge**

The Band Administrator will recommend to the Council that an employee be discharged after all of the above steps have been exhausted. A discharge will be effective immediately upon decision of Council or delegated authority.

## **Resignation and Termination of Employment**

This section provides policies and procedures with regard to the resignation of the Tobique First Nation staff members, or the termination of their employment by the Tobique First Nation.

### **1. Staff Resignation**

Employees wishing to terminate their employment or retire must give written notice of at least 28 calendar days to their immediate supervisor/manager. In special circumstances, and with the consent of the Band Administrator, the employee may terminate employment with less notice.

Twenty eight calendar days' notice will be provided to any permanent employee with more than six (6) months of continuous service; seven (7) calendar days' notice will be given to any employee with less than six (6) months of service. The written notice of termination will include the reason(s) for the discharge, as well as the effective date of termination. In the event the First Nation does not give the employee sufficient notice of termination, the First Nation shall make payment to the employee, equal to the number of days' difference between the actual and the required notification period.

“**Just cause**” shall include the following:

- a) Incompetence or incapacity – where the employee, in the opinion of supervisor, is incompetent or incapable to perform the duties of the position occupied. (This could include loss of a driver's license, where this is mandatory for the job.)
- b) Abandonment of position – an employee absent without cause for one week or more may be declared as having abandoned the position.
- c) Misconduct – where the employee has accumulated two or more reprimands, or is found guilty of a major misconduct.
- d) Lay-off – where services are no longer required because of lack of work, or because of the discontinuance of the employee's function(s).
- e) Financial restrictions – where due to budgetary restriction, the Tobique First Nation Council can no longer afford to pay the employee.

### **Grievance Procedures**

This section provides procedures for dealing with Tobique First Nation staff personnel Grievances:

1. The employee will present the grievance to the Band Administrator in writing within ten (10) days of the incident occurring, with the exception of grievances dealing with suspension or termination of employment, which will be presented within two (2) working days after the suspension or termination notice.
2. The Band Administrator will respond to all grievances, except those dealing with suspension or termination of employment, which will be reviewed by the Appeal Committee.
3. The grievor is entitled to a hearing, if so requested.

4. Grievances will be replied to within thirty (30) days of receipt of the grievance, or within thirty (30) days of the hearing, if a hearing is held.
5. Time limits may be extended by mutual consent.
6. All decisions of the Appeal Committee will be binding and final.

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