

## ORDINANCE NO. 301

**BE IT FURTHER RESOLVED**, that the **TITLE XVIII. Tribal Employees**, of the Tribal Code of Justice of the Standing Rock Sioux Tribe be and the same is hereby repealed and replaced' with the new **TITLE XVIII. Tribal Employees** as attached.

**[SEE ATTACHED PAGES]**

## RESOLUTION NO. 037-07

**BE IT FURTHER. RESOLVED**, that pursuant to the power vested in the Standing Rock Sioux Tribal Council under the Article IV of the Constitution of the Standing Rock Sioux Tribe, as amended, the foregoing **Ordinance No. 301**, repealing all prior Ordinances regarding Title XVIII Tribal Employees of the Tribal Code of Justice and is replaced with the attached new **Title XVIII. Tribal Employees** which is hereby **APPROVED**; and

**BE IT FURTHER RESOLVED**, the Chairman and Secretary of the Tribal Council are hereby authorized and instructed to sign this resolution for and on behalf of the Standing Rock Sioux Tribe.

## CERTIFICATION

**We**, the undersigned, Chairman and Secretary of the Tribal Council of the Standing Rock Sioux Tribe, hereby certify that the Tribal Council is composed of [**17**] of whom **13** constituting a quorum, were present at a meeting thereof, duly and regularly, called, noticed, convened and held on the 16th day of **JANUARY, 2007**, and that the foregoing resolution was duly adopted by the affirmative vote of 12 members, with **0** opposing, and with **1** not voting. **THE CHAIRMAN'S VOTE IS NOT REQUIRED EXCEPT, IN CASE OF TIE.**

**DATED THIS 16th DAY OF JANUARY, 2007.**

**ATTEST:**

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Ron His Horse Is Thunder, Chairman  
Standing Rock Sioux Tribe

**[Official Tribal Seal]**

Meeting Date: 01-16-07  
Motion No. 37

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**TITLE XVIII. TRIBAL EMPLOYEES**

**CHAPTER 1. GOVERNING PRINCIPLES**

18-101. General Purpose

The purpose of this Title is to establish the general principles and guidelines to be followed in recruitment, employment, retention, promotion, training, discipline, and termination of employees of the Standing Rock Sioux Tribe.

It is the intention of the Tribe under this Title that:

- a) Recruitment, employment, retention, promotion, training, discipline, and termination of employees shall be based on their qualifications in relation to the job or position to which they are hired or assigned, and to their performance in carrying out the assigned duties of that job or position.
- b) The Tribe shall establish policies governing personnel that are in compliance with Tribal laws and with federal laws and regulations applicable to Tribal employees.
- c) Employee rights and responsibilities shall be established and protected under the authority of the Tribal government.

18-102. Personnel Policies and Procedures

Specific policies, guidelines, and procedures to carry out the directions and intent of this Title are to be compiled, and set forth in the Standing Rock Sioux Tribe Personnel Policies and Procedures Manual, which is to be interpreted along with this Title to establish the purposes and policies of the Standing Rock Sioux Tribe with regard to its employees.

- a) All policies, guidelines, and procedures governing personnel matters are to be set forth in the Tribe's Personnel Policies and Procedures Manual. The Tribe's Human Resources Manager shall provide for the compilation and ongoing maintenance of the Manual.
- b) Compensation for work shall be based on the Tribe's compensation plan, which shall be adopted as set forth in the Personnel Policies and Procedures Manual.
- c) All compensation and other personnel actions having any financial implication shall also be in compliance with requirements of the Tribe's Financial Management Policies and Procedures Manual, including requirements for budget sufficiency and proper processing of transactions.

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**The Tribal policies and regulations developed hereunder shall meet or exceed the relevant federal standards governing employment**

### **18-103. Application of Personnel Policies and Procedures**

The Personnel Policies and Procedures shall apply to all tribal employees, including politically appointed employees, and all employees operating under contracts between the Tribe and federal, state and local governments, except for the following, who are covered under other Titles or under designated contractual arrangements:

- a) Elected Officials of the Tribe, including the Tribal Chairman, Vice Chairman, and members of the Standing Rock Sioux Tribal Council (Title XIX);
- b) Elected officials and employees of the district councils (Title XX);
- c) Members of the Election Commission (Title XV);
- d) Tribal Judges, Justices, Chief Prosecutor, and Tribal Public defender (Title 1);
- e) Any chartered entity of the Tribe or corporation owned and controlled by the Tribe, which is by its own Board and receives independent funding through its corporate charter, including but not limited to:
  - 1) Commission members and employees of the Standing Rock Housing Authority;
  - 2) Board members of the Standing Rock Enterprises;
  - 3) Board members of Standing Rock Farms;
  - 4) Board members and employees of the Sitting Bull College;
  - 5) Board members of the JTAC Board;
  - 6) Board members and employees of the Standing Rock Grant School;
  - 7) Board members and employees of the Rock Creek Grant School;
  - 8) Board members of the Standing Rock Head Start Policy Council;
  - 9) Board members and employees of the Little Eagle School; and
  - 10) Employees of the Prairie Knights and Grand River Casinos.
- f) Persons who are not employees of the Tribe, and who are serving under independent contract with the Tribe;

Regardless of the terms of their corporate charter, any program or entity that receives any funding from the Tribe, or uses the name of the Tribe to acquire federal funding, shall be covered by the terms and requirements of this Title, except when separately established by Federal statute.

### **18-104. Assigned Responsibilities**

The Standing Rock Sioux Tribal Chairman is responsible for assuring the intentions of this Title concerning the recruitment, employment, retention, promotion, training,

discipline, and termination of employees are achieved. The Chairman shall cause the appropriate oversight and monitoring to be established to assure the policies and guidelines are properly followed.

## **CHAPTER 2. EMPLOYEE RIGHTS AND RESPONSIBILITIES**

### **18-201. Conditions of Employment**

Specific terms and conditions of employment shall be governed by and found in the Tribe's Personnel Policies and Procedures Manual. The following principles shall guide the development of policy and standards to be applied to the Tribe's employment practices.

#### **18-201.1 Indian Preference.**

Preference in hiring shall be given to qualified applicants claiming Indian Preference who are enrolled in a federally recognized Tribe.

#### **18-201.2 Veteran's Preference**

Preference in hiring shall be given to qualified applicants claiming Veteran's Preference who are discharged with honorable and under honorable conditions from the Armed Forces of the United States.

#### **18-201.3 In House Transfers**

A fulltime permanent Tribal employee may apply for a transfer to an Existing vacant position of a new, vacant, advertised position when:

1. the employee meets all the qualifications for the position and the Executive Director, Human Resources Manager and Supervisor of the position for which the transfer is sought agree that the applicant's transfer to the position is in the best interest of the Tribe, Department and office where the vacant position is located, or
2. The employee is in a position which is being subjected to a Reduction in Force (RIF), and The employee meets all qualifications to be considered for transfer approval.
3. Program Directors, Managers, Coordinators are not eligible to transfer to another Director, Manager or Coordinator position.

**8-201.4      Drug-Free Workplace.**

All Tribal employees (including contract employees) are prohibited from unlawful manufacture, distribution, disbursing, possession or use of controlled substances under the Tribal Code of Justice, Title IV, Chapter 8, Drugs and Related Offenses, § 4-801. The Tribe's Drug Free Workplace Policy, adopted by Tribal Council Resolution 141-97, dated March 6, 1997, is included herein by reference, as if set forth in its entirety. Further, the Tribe has adopted a "zero tolerance" policy with respect to Illegal Drugs and Controlled Substances, Resolution 076-06, adopted February 6, 2006, which is also included herein by reference, as if set forth in its entirety.

**18-201.5      Alcohol-Free Workplace.**

All Tribal Employees are prohibited from possession or use of alcohol while discharging the duties of the Tribe, or from being in the work place while under the influence of alcohol. Specific terms and conditions shall be set forth in the Tribe's Personnel Policies and Procedures.

**18-201.6      Work Environment**

The Tribe shall provide a safe working environment for all Tribal employees, and employees shall be protected in their work place from hostile and coercive acts, disruptive behavior, and from sexual harassment in any form of verbal and/or physical conduct and advances.

- a) The Tribe shall adopt a policy of "zero tolerance" with respect to such behavior, and shall establish policies, guidelines, and ongoing training to ensure compliance.
- b) Notwithstanding the exclusion cited in 18-103, Tribal Council members shall not be exempt from this provision, and shall not engage in any actions or behavior which would violate rights under this provision of individual employees or groups of employees. (See also the provisions of Title XIX, 19.402 (b), and Title XXVII, Code of Ethics.)
- c) Candidates for Tribal or other local, state, or federal political office, their agents, or supporters shall be prohibited from campaigning or soliciting support from Tribal employees on Tribal property and during working hours.

**18-201.7      Character Investigations Required**

Any individual who is employed or is being considered for employment by the Standing Rock Sioux Tribe with respect to a position that involves

regular contact with or control over Indian or non-Indian Children, contact with elderly, handicapped, and community programs, and contact with sensitive, financial, and trust records, shall be subject to character investigation and background check, in accordance with PL 101-630, Indian Child Protection and Family Violence Prevention Act of 1990, as amended, codified at 25 U.S.C. § 3207, et seq.; PL 101-647, Subchapter V, Child Care Worker Employee Background Checks, codified at 42 U.S.C. § 13401; and the requirements of OMB Circular No. A-130, Access Screening, and subsequent changes to those laws as may be applicable. Background checks shall be conducted in accordance with specific policies and procedures, and shall include fingerprinting.

**18-201.8 Standards for Employment.**

The Standing Rock Sioux Tribe shall not employ any individual in a position dealing with sensitive or confidential information, a position involving financial dealings or a position of public trust, if that individual has been found guilty of theft or entered a plea of *nolo contendere* or guilty of any offense under Federal, state or tribal law involving a crime of embezzlement or other financially-related crime.

Similarly, the Tribe shall not employ any individual in any position where he/she has contact with or control over children, elderly, handicapped, and tribally-funded community programs, if that individual has been found guilty of or entered a plea of *nolo contendere* or guilty of any offense under federal, state or Tribal law involving a crime of violence, sexual assault, molestation, exploitation, contact or prostitution or other crimes against persons.

- a) The Tribe shall not hire, or shall immediately terminate, any individual who has provided false information or failed to fully disclose required information on the Tribal employment application form or any other investigative document that is pertinent to the determination of whether the individual should be hired by the Tribe or any program the Tribe funds. Any adverse action taken by the Standing Rock Sioux Tribe under this chapter shall remain a part of the individual's permanent employment record in the event of future application for employment with the Tribe or any program funded by the Tribe.
- b) Notwithstanding the provisions of this section, any employee or potential employee who shall have been judged to be guilty of a violation of SRST Code, § 4-1202, Failure to Support Dependent Persons, shall not automatically be barred from Tribal employment, so long as the individual employee establishes and continues to pay child support or payments for dependent support by payroll deduction, in accordance with Tribal Court orders.

**18-201.9 Nepotism.**

Program directors or supervisors shall not supervise a relative or closely associated person, nor advocate for their employment or advancement. Relative means: father, mother, grandfather, grandmother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, whether or not by adoption. In addition, Program directors or supervisors shall not supervise their husband, wife, father-in-law, mother-in-law, sister-in-law, brother-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister. As used here, the term "closely associated person" means domestic partners.

**18-201.10 Licensures to Operate Vehicles/Equipment**

All employees who may operate Tribal equipment or vehicles or who may seek reimbursement for travel in their personal owned vehicle on or off the reservation, must maintain a current, valid driver's license or appropriate certification of ability to operate such equipment, and submit to the Tribe evidence that they possess a current, valid driver's license or appropriate current, valid certificate for the equipment being operated by the individual employee. Such employees shall also provide evidence that they have liability insurance for their personal Vehicles, and/or that they are eligible for coverage under Tribal policies for Tribal vehicles.

**18-201.11 Conflicts Of Interest**

Any individual who seeks to become an employee of the Tribe may not retain any interest in external personal or business affairs that would constitute or appear to be a conflict of interest with their exercise of duties as a Tribal employee, nor may they undertake a position with the Tribe that would enable them to exercise decisions or make judgments that would benefit relatives (as defined in Code, §18-201.8) or other personal friends to the detriment of the Tribe's interests. Specific requirements of the Tribe's Code of Ethics are set forth in Title XXVII of the Code of Justice.

**18-201.12 Repayment of Indebtedness to the Tribe**

Any employee of the Tribe, or any individual who is seeking employment with the Tribe, and who is indebted to the Tribe either through direct loans and advances or through co-signing or endorsement of loans which have become delinquent, shall establish arrangements for repayment of such debt through payroll deductions. Current employees who fail to commit to such repayment shall be subject to appropriate disciplinary action, up to and including termination. Prospective employees shall make and enter

into such repayment arrangements with the Tribe prior to accepting employment with the Tribe.

**18-201.13 Non-Disclosure/Confidentiality**

Information obtained by an employee by virtue of their exercise of duties shall be maintained in strictest confidence. Tribal employees may become aware of and have access to information on Tribal members and others who may be served under Tribal programs or who may conduct business with the Tribe. Such information is considered privileged. Program directors and supervisors shall be responsible for implementing controls to ensure confidentiality of Tribal records.

**18-201.14. Outside Employment**

To avoid conflicts of interest or claims of duplicate payment for services rendered, the following Conditions regarding, outside employment are imposed:

- a) Employees shall not engage in outside employment or private enterprise without permission of the program director or supervisor, and with notification to the Office of Human Resources.
- b) Employees shall not work for the Bureau-of Indian Affairs, Indian Health Services or other federal entity, except under authorized IPA Agreements with the Tribe at the Tribe's request or during emergencies.
- c) Consultant or employment agreements with outside organizations (defined as businesses or organizations not owned by nor affiliated with the Tribe, or those organizations, district operations or board excluded from Title XVIII, 18-103).

**18-201.15**

Employees may not accept payment of salary or stipends from boards, committees, commissions, district operations, and other organizations, where such payments are for services rendered during times that are already compensated by Tribal salary or wages, unless the employee uses compensatory leave, annual leave, or leave without pay.

**18-202. Code of Ethics**

Title XXVII of the Code of Justice establishes a Code of Ethics that applies to all Tribal officers and employees. All personnel policy decisions shall be made within the context

of the principles contained within the Code of Ethics. Violations of those principles shall be grounds for dismissal or prosecution, depending on the severity of the violation.

**18-203. Prohibited Activities**

**18-203.1 Prohibited Activities**

Employees of the Tribe and employees of any entity, corporation or enterprise, that is financed in whole or in part by Tribal funds, including funds granted or loaned to the Tribe, shall not use his or her official authority or influence for the purpose of interfering with, or affecting the result of any Tribal election or nomination for elective Tribal office. These employees also shall not hold an elective office on Tribal Council.

**18-203.2 Political Activities Prohibited During Working Hours**

Employees of the Tribe and employees of any entity, corporation or enterprise, that is financed in whole or in part by Tribal funds, including funds granted or loaned to the Tribe, shall not participate in any of the following activities during working hours, for any political campaign for Tribal, local, state, or federal political office.

- a) Serve for or on any political campaign committee.
- b) Organize a political party or political club.
- c) Directly or indirectly solicit, receive, collect, handle, disburse or account for contributions on behalf of candidates.
- d) Take an active part in managing the political campaign of a candidate.
- e) Endorse or oppose a candidate for elective office in a political advertisement, broadcast, campaign literature or similar material or media.
- f) Address or attend a political rally, or political meeting, or similar gathering in support of or in opposition to a candidate.
- g) Write for publication or publish any letter signed or unsigned in favor of or against any candidates or faction.

Further, no employee may circulate or sign a nominating petition on behalf of one or more candidates to any Tribal, local, state, or federal election during working hours. Violations of these provisions shall subject the employee to disciplinary action.

### 18-203.3 Notice to Seek Elective Office

An employee may become eligible to seek tribal elective office by giving written notice of the employee's intent to seek tribal elective office, to the employee's supervisor and to the Chairman of the Tribal Council, prior to the last day for filing a nominating petition and notice of candidacy. Such notice must be given prior to the day on which the employee's nominating petitions are filed, in order to remain on pay status.

- a) Upon election to Tribal Council, employment with the Tribe shall terminate.
- b) Upon election to other boards and district offices, the employee shall notify the Tribal Chairman and the Human Resources Manager.
- c) Employees appointed to Tribal Committees shall provide notice to the Tribal Chairman and the Human Resources Manager.

### 18-204. Protection of Employees

Tribal employees, who are exposed to sexual harassment or an intimidating or offensive working environment, as identified in the Code of Ethics, shall be protected by the Tribe against retaliation that may occur as result of the employees' confrontation of such behavior. Such protection may include provision of mediation support through the Office of Human Resources, or use of security forces to avert further physical confrontation.

### 18-205. Complaints Against Employees

Complaints from outside parties received against Tribal employees shall not be entertained or addressed in public meetings. Instead, such complaints shall be referred to the Executive Director, who shall investigate the complaints and determine appropriate follow-up action on the complaint. A copy of the complaint shall be sent to the Office of Human Resources for tracking. A response to the complaint shall be sent to the complainant once the matter is resolved.

## **CHAPTER 3. DISCIPLINARY ACTION AND EMPLOYEE GRIEVANCES.**

### **18-301. Disciplinary Action**

Discipline shall be imposed on an employee solely for cause. Disciplinary actions shall be set forth in the Tribe's Personnel Policies and Procedures Manual, and shall be coordinated with the Office of Human Resources.

- a) The burden of proof shall be on the supervisor to timely identify the specific cause for which the discipline is being sought, and to provide objective evidence of the cause for action.
- b) The issues of whether to impose discipline, the type of discipline sought to be imposed, and the extent to which discipline should be imposed shall be considered in light of the existing evaluation(s) of job performance for that employee.
- c) Prior job performance evaluations shall not be considered where discipline is sought to be imposed for an act(s) of aggression or violence, dishonesty, or for violation of conditions of employment or violations of the Code of Ethics.

### **18-302. Administrative Review Committee**

An Administrative Review Committee shall be established to hear all testimony and review all evidence submitted by an employee under suspension or termination action. The Committee shall hear the review or appeal and render the final decision. Decisions may include conditions of reinstatement, which shall be binding.

- a) Composition. The Administrative Review Committee shall be comprised of five (5) members, who shall serve a term of one (1) year. Members shall be selected from a pool of employees, who shall have been employed by the Tribe a minimum of five (5) consecutive years, and with at least two members being in a supervisory capacity. The Tribe's Human Resources Manager shall be the sixth member and shall serve as the non-voting Chairperson for the Committee.
- b) Authority. The Administrative Review Committee shall follow the Tribe's Personnel Policies and Procedures in conducting its hearings.

### **18-303. Supervisory Responsibility for Grievance Resolution**

Supervisors and program directors are responsible for addressing and resolving issues and/or concerns within their assigned areas of responsibility that may lead to filing of grievances. Issues may include those between the supervisor and employee(s), or conflicts among employees under their supervision. Failure or unwillingness by supervisors to address and resolve conflicts shall be cause for disciplinary action against the supervisor.

18.304. Grievance Committee.

A Grievance Committee shall be established to review internal grievances that may be filed by employees against their supervisors, where discussions between the employee and their supervisor have failed to arrive at a mutually-satisfactory resolution. The Grievance Committee shall hear the grievance and render the final decision on it. The Committee may also provide recommendations for future corrective action.

- a) Composition. The Grievance Committee shall also be comprised of five (5) members, who shall serve a term of one (1) year. Members shall be selected from a pool of employees, who shall have been employed by the Tribe a minimum of five (5) consecutive years, and with at least two members being in a supervisory capacity. The Tribe's Human Resources Manager shall be the sixth member and shall serve as the non-voting Chairperson for the Committee.
- b) Authority. The Grievance Committee shall meet with both the employee and supervisor to hear both sides of matter being grieved. All grievances shall be handled pursuant to the Tribe's Personnel Policies and Procedure.



