

Ts'kw'aylaxw First Nation
Employee Policies and Guidelines

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Ts'kw'aylaxw First Nation

Employee Policies and Guidelines

A. Governance

1. These Policies and Guidelines as amended from time to time are deemed a part of the employment contract for all persons who are directly employed by the Ts'kw'aylaxw First Nation ("TFN"), and accepting a salary or an hourly wage from TFN from time to time. These Policies and Guidelines do not apply to:

- Employees of TFN owned companies or businesses;
- Employees who are not the direct responsibility of the TFN administration;
- Independent contractors;
- Chief and Councillors; or
- Trustees or board members.

Chief and Council acknowledge its responsibility to implement these Policies and Guidelines uniformly and fairly for all employees, as part of sound governance practice.

2. Types of remuneration governed under these Policies and Guidelines are:

- Salaried; and
- Hourly.

B. Terms and Conditions of Employment

1. Remuneration and Employee Classifications

1.1 Salaried Employees

- 1.1.1 These are employees who receive compensation based on a per annum salary for a 35 hour work week.

1.2 Hourly Employees

- 1.2.1 These are employees who are paid an hourly wage based on the number of hours worked in a given pay period.

1.3 Employee Classifications

- 1.3.1 All employees, whether salaried or paid hourly, will be classified as follows:

Permanent Full Time: An employee who works a minimum of 35 hours per week with ongoing employment;

Permanent Part Time: An employee who works less than 35 hours per week with ongoing employment;

Temporary Full Time: An employee who works a minimum of 35 hours per week, whose employment is not ongoing and does not exceed 52 continuous weeks in length (i.e. filling a position for maternity leave, holidays, or another leave from employment);

Temporary Part Time: An employee who works less than 35 hours per week and whose employment is not ongoing; and

Casual or Relief: An employee who works on an on-call basis to provide casual or relief assistance when needed.

2. Hours of Work

2.1 The standard work week for TFN employees who work full time is from 8:30 am to 4:00 pm or seven hours per day or 35 hours per week. Lunch is one half hour, normally taken from 12:00 pm to 12:30 pm. Two paid breaks of 15 minutes each will be taken, once in the morning and once in the afternoon. In any seven day period beginning on a Sunday and ending on the following Saturday, an employee will not be asked to work more than 48 hours, except in the case of emergency.

2.2 Part time employees will have their hours of work determined when they start employment.

2.3 Chief and Council may on four weeks written notice to all employees, reduce the working hours and pay by a uniform percentage applicable to all employees, as a temporary measure, to deal with a financial deficit for TFN, which reduction shall be deemed a variation agreed to by all employees, and not either a layoff or dismissal from employment. Any such temporary reduction in working hours will not affect the employee classifications set out in section 1.3.

3. Employee Pay

3.1 Employees will be paid according to the pay scale assigned to each position. They will be paid at least minimum wage. (This provision may be waived for employees who are being trained on the job or who are participating in a government assisted employment program).

3.2 Employees are subject to statutory deductions such as income tax, EI and CPP. Those employees who have status under the *Indian Act* must provide proof

thereof and otherwise comply with Canada Revenue Agency policy to obtain the exemption from income tax provided under section 87 of the *Indian Act*. TFN may not make deductions to wages or other amounts due to an employee unless the deduction is required by federal or provincial law, is authorized by a court order or collective agreement, is for amounts authorized in writing by that employee, or is for overpayment of wages by TFN. TFN may not make deductions in respect of damages to property or loss of money if any person other than the employee had access to the property or money in question.

3.3 Paydays occur on a bi-weekly basis with cheques being released at noon on paydays.

3.4 Early cheque release must be pre-approved by the Administrator. (Cheques can only be picked up by someone other than the payee if verbal or written permission is first given by the payee to the Administrator, and only the person designated to pick up the cheque can do so. No exceptions are made.)

3.5 Overtime

3.5.1 Overtime at the rate of one and one half times the hours worked, will be paid by time off in lieu of overtime worked to those persons who either:

- a. exceed the normal hours of work in a given day, being seven hours; or
- b. exceed the normal hours of work for a week, being 35 hours.

3.5.2 Overtime will be calculated and accrued by the half hour and will be based on the following guideline:

under 30 minutes, no overtime will be approved, unless accrued on three consecutive days, and then one hour will be approved in total for each consecutive three day period;

30 minutes to 45 minutes: 30 minutes will accrue;

45 minutes to 60 minutes: 1 hour will accrue; and

over 60 minutes: will continue to accrue on the half hour.

3.5.3 Overtime will only be paid if authorized by the Administrator. Employees must get pre-approval through the signing of the Overtime Authorization Sheet. Overtime leave must be taken within two calendar months of its accrual.

3.5.4 Travel time will not count for overtime unless more than two hours is spent in total travel time, which total includes both going to and returning from the destination. Overtime will only apply to the travel time over that two hours. In this case the employee must get pre authorization from the Administrator under paragraph 3.5.3.

4. Lateness and Absenteeism

- 4.1 Any employee who will be absent during normal working hours or who expects to be late, is required to inform the Administrator. Any employee who desires to leave early must also get authorization from the Administrator.
- 4.2 Where an employee without authorization of the Administrator, is late, absent or leaves work early, that employee will have his or her salary or wages deducted for the time missed. Unauthorized absence from work can in accordance with Article 9 of these Policies and Guidelines, result in either progressive disciplinary action or be cause for immediate termination.

5. Leave

All employees are entitled to various types of leave, as set out in these Policies and Guidelines, including vacation leave. All leaves from work whether paid or unpaid, must be approved in writing by the Administrator. Any unauthorized leaves can in accordance with Article 9 of these Policies and Guidelines, result in either progressive disciplinary action or be cause for immediate termination. The following outlines the various types of leave from regular work duties:

5.1 Vacation Leave

- 5.1.1 Employees are entitled to paid holidays which are earned on the basis of the number of years that an employee has worked for TFN. Holiday time will begin accruing from the employee's first day of work. All employees are expected to take their holidays after the anniversary date of employment has past.
- 5.1.2 Vacation time of three days or less must be approved by the Administrator in writing no less than three working days in advance, and vacation time of longer than three days must be approved by the Administrator in writing a minimum of two weeks in advance.
- 5.1.3 In exceptional cases, the Administrator may authorize vacation leave to be carried forward to the next year. Such requests and approval must be in writing.
- 5.1.4 Paid vacation entitlements for permanent full time and permanent part time employees are as follows:

| Years of Continuous Employment | Annual Vacation Entitlement Percentage (%) | Annual Vacation Entitlement (Work Days) |
|---------------------------------------|---|--|
| 1 though 5 years | 4% | 10 |
| 6-12 years | 6% | 15 |
| 13 or more years worked | 8% | 20 |

Provided that the vacation entitlements for any such employees hired up to the day before the enactment of these Policies and Guidelines shall be determined under paragraph 5.1.4 of the TFN Employee Policies and Guidelines adopted May 5, 2004 and revised August 24, 2004.

- 5.1.5 Hourly employees shall receive 4% of their gross wages as vacation pay on each pay cheque, and any vacation time will be without pay.
- 5.1.6 Vacation granted must begin not later than 10 months after the year of employment entitling the employee to vacation.
- 5.1.7 Any outstanding vacation pay must be paid on termination of employment.

5.2 Statutory Holidays

- 5.2.1 TFN observes the following as paid statutory holidays:

- New Years
- Good Friday
- Easter Monday
- Victoria Day
- Canada Day
- BC Day
- Labour Day
- Thanksgiving Day
- Remembrance Day
- Christmas Day
- Boxing Day
- National Aboriginal Day

5.3 Statutory Holiday Pay

- 5.3.1 An employee whether salaried or paid hourly, is not entitled to pay for a statutory holiday that occurs in his or her first 30 days of employment with TFN.
- 5.3.2 Employees on salary shall not have their pay reduced by reason of a statutory holiday occurring within the bi-weekly pay period. Employees who are paid hourly shall for a statutory holiday receive the equivalent of the wages the employee would have earned for the normal day's work. This paragraph is subject to paragraph 5.3.1.

5.4 Sick Leave

- 5.4.1 Sick leave applies to all salaried employees, both part time and full time. Paid sick leave accumulates at 1.25 days per month of work including statutory holidays and paid leave, but does not accumulate during any unpaid leave. Paid sick leave begins accumulating from the first day of

employment. Employees may use paid sick leave only if they have accumulated it. An employee wishing to use sick leave must phone the Administrator no later than the beginning of the work day to advise of the reason for the paid or unpaid sick leave request, and obtain the Administrator's consent, which the Administrator shall record in writing. An employee who does not follow this process for sick leave shall be considered on an unauthorized and unpaid absence from work. Any unauthorized absences can in accordance with Article 9 of these Policies and Guidelines, result in either progressive disciplinary action or be cause for immediate termination.

- 5.4.2 Sick leave is available to be used when an employee is, due to illness or accident, not able to report to work as required.
- 5.4.3 Employees may utilize paid sick leave in the case of a Dependent up to a maximum of five days per fiscal year of TFN ending March 31st in each calendar year. Absences in excess of three consecutive work days will be considered extended medical leave, with the provisions of section 5.5 being applicable, with any necessary changes in points of detail. **"Dependent"** means a close relative or a person with whom the employee has a special family relationship, with any disputes as to whether a person is a Dependent of an employee, to be finally resolved by Chief and Council.
- 5.4.4 Paid sick leave may be accumulated to a maximum of 20 days and will not be paid out when the employment ends, regardless how the employment ends. Paid sick leave accumulated in excess of 20 days that is not used by the next fiscal year end of TFN on March 31st in the calendar year, will be lost without being paid out.

5.5 Extended Medical Leave

- 5.5.1 When sick leave is sought for a period in excess of three consecutive work days, the employee shall provide to the Administrator a certificate signed by a medical doctor, which shall indicate the nature of the illness or accident, the likely recovery time, and the treatment to be undertaken. The provision of a satisfactory medical certificate is a precondition to utilizing accumulated paid sick leave.
- 5.5.2 Employees may use accumulated paid sick leave for extended medical leave until the accumulated paid sick leave is used up. Extended medical leave may be granted without pay in situations where the employee has used all his or her accumulated paid sick leave.
- 5.5.3 Where extended medical leave is sought in order to seek drug/alcohol treatment, the employee may apply for leave without pay for up to three months. Accumulated paid sick leave may be used for this purpose.

- 5.5.4 If leave is sought due to stress, extended medical leave can be granted for up to three months. The employee must provide a certificate signed by a medical doctor setting out the nature of the stress, the likely recovery time and the proposed treatment. Upon consultation between the employee and the Administrator, time duration for the leave will be established. Prior to returning to work, the employee must satisfy the Administrator that he or she is capable of functioning effectively in his or her work.
- 5.5.5 For Workers Compensation Board (“WCB”) claims, employees are to immediately notify the Administrator in writing of any injuries they sustain while on the job . If an employee is entitled to a WCB claim then he or she will be paid according to WCB policy. If the employee is unable to report to work, then accumulated paid sick leave may be used until payment to the employee starts on the WCB claim.
- 5.5.6 Stress or other medical leaves will even though approved by the Administrator, be unpaid once the accumulated paid sick leave of the employee is fully used.
- 5.5.7 TFN is committed to collaborating with any disabled employee in ways that do not create an administrative, supervisory, operational or financial burden on TFN. This collaboration is conditional upon a written accommodation agreement being made between TFN and the disabled employee, containing those commitments from both TFN and the employee necessary to have the employee productively employed by TFN. In these Policies and Guidelines, “disabled employee” means an employee of TFN who is unable due to injury or sickness to perform all the responsibilities of his or her regular employment during his or her usual hours of work, which inability is certified in writing by a medical doctor.

5.6 Personal Leave

- 5.6.1 Employees are entitled to personal leave, without pay, for up to one year as long as they are permanent employees and have been employed by TFN for at least three consecutive years. Employees must apply in writing to the Administrator and leave will be granted based on a review by the Administrator, and Chief and Council.

5.7 Education Leave

- 5.7.1 Employees may apply for education leave if they have been employed with TFN for a minimum of 12 consecutive months. Such leave will be applied for in writing, submitted to the Administrator and then reviewed for approval by the Administrator, and Chief and Council. Terms and conditions will be applied on a case by case basis.
- 5.7.2 Employees are to continue upgrading to meet the requirements of the job. Periodic employee evaluations under section 10.4 will assist in this process to identify training needs.

5.8 Maternity Leave

- 5.8.1 Full time employees whether permanent or temporary who have worked for a period of six consecutive months and provide a certificate as to pregnancy signed by a medical doctor, will be granted an unpaid maternity leave for a period of one year from a date pre-determined by the employee and the Administrator. An extension of the leave may be granted for up to six months, upon written request from the employee and written approval of the Administrator.

5.9 Paternity Leave

- 5.9.1 A new father shall be entitled to up to two days of paid leave to deal with the issues related to the birth of his child.
- 5.9.2 Full time male employees whether permanent or temporary who have worked for a period of six consecutive months and have a new-born child in their care, whether their own or adopted, will be granted an unpaid parental leave for a period of 37 weeks from a date pre-determined by the employee and the Administrator. This paragraph shall not apply if the mother of the child is also an employee and has an approved unpaid maternity leave for that child under paragraph 5.8.1.

5.10 Bereavement Leave

- 5.10.1 Each employee may apply for paid leave for up to four working days for the death of a Dependent, and up to one day additional paid leave for travel time if the deceased did not reside on a reserve of TFN. The length of leave shall be in the discretion of the Administrator, and may be completely revoked after the leave has been taken if the Administrator learns that the employee did not attend the funeral.
- 5.10.2 Employees are entitled to paid leave for one work day for the death of a person who is a member of TFN, but which deceased person is not a Dependent.
- 5.10.3 All other bereavement leave will be at the discretion of the Administrator and may be granted, without pay, for up to four working days. Where the employee is participating in traditional cultural practices of TFN in connection with a death, and can substantiate that additional unpaid leave is required, Chief and Council shall determine if any additional unpaid leave shall be granted.
- 5.10.4 Bereavement leave covers only scheduled work days. (Example: If a Dependent of the employee passes away on a Friday, and the employee's regular days off are Saturday and Sunday, bereavement leave would only apply to the following Monday and Tuesday. Similarly, if the passing occurred during an employee's vacation, bereavement leave would not apply.)

5.10.5 An employee may request additional paid bereavement leave if managing the affairs of the deceased, which leave is to be granted at the discretion of the Administrator.

5.11 Compassionate Care Leave

5.11.1 Every employee is entitled to and shall be granted an unpaid leave of up to eight weeks to provide care or support to a close relative or a person with whom the employee has a special family relationship, if a medical certificate is received by TFN stating that the person requiring care or support has a serious medical condition with a significant risk of death within 26 weeks from:

- a. the day the certificate is issued; or
- b. if the leave was commenced before the certificate is issued, the day the leave was commenced.

The aggregate amount of leave that may be taken by two or more employees under this section for the care or support of the same person shall not exceed eight weeks.

5.12 Benefits During Unpaid Leave

5.12.1 An employee on an unpaid leave approved in writing by the Administrator, will if he or she pays during the leave period the employee's monthly share of the premiums for the benefit plans maintained by TFN for its employees generally, keep his or her benefits during the leave period.

5.13 Return to Work After Unpaid Leave

5.13.1 An employee returning to work after an unpaid leave approved in writing by the Administrator, shall maintain the sick leave credits accumulated before going on unpaid leave. The employee returning will be entitled to a position having comparable duties and responsibilities and the same wages and benefits as the position held by that employee before the unpaid leave.

5.14 Opportunities for Training or Promotion During Leave

5.14.1 The Administrator will if requested in writing by an employee on either paid or unpaid leave, advise the employee in writing of opportunities that arise for employment, promotion or training during the leave period.

6. Employee Code of Conduct

6.1 All employees are expected to act in a professional manner . The following general code of conduct will be followed:

- 6.1.1 Family and personal visits must be restricted so as to not interfere with the employee's fulfillment of his or her duties.
- 6.1.2 Personal long distance phone calls will not be tolerated, except in the case of emergencies and the employee may be responsible for repayment of costs, in the discretion of the Administrator. Personal use of computers will not be tolerated.
- 6.1.3 All visitors and clients shall be treated with appropriate courtesy.
- 6.1.4 All employees shall wear proper business attire and maintain good personal hygiene when at work or anywhere else on TFN business.
- 6.1.5 The TFN office is non-smoking.
- 6.1.6 Employees are responsible for their own personal items brought into the TFN office, and do so at their own risk.
- 6.1.7 Employees must both list on the board in the TFN office all their leaves from work, and supply any documentation for these leaves, as required by these Policies and Guidelines, to the Administrator. Failing compliance with both requirements, the employee will be deducted any pay for those leaves which will then also be unauthorized.

7. Conflict of Interest

- 7.1 No conflict of interest should exist between the private interests of an employee and his or her official duties. It is the employee's responsibility to avoid outside interests which might compromise the employment with TFN or which may interfere with the ability to make decisions or judgments in the course of his or her duties.
- 7.2 Any perceived or potential conflict of interest of an employee other than the Administrator, should be brought by that employee to the attention of the Administrator, and in the case of the Administrator, by the Administrator to the attention of the Chief. The Administrator will consult with the employee and Chief and Council to determine if there is any perceived or potential conflict of interest, by the employee, and will recommend to the employee a course of action that will protect both the employee and TFN. In the case of a perceived or potential conflict of interest by the Administrator, Chief and Council will make the determination and recommendation.
- 7.3 Any failure by an employee to disclose a perceived or potential conflict of interest, contrary to section 7.2, can in accordance with Article 9 of these Policies and Guidelines, result in either progressive disciplinary action or be cause for immediate termination.
- 7.4 Examples of perceived or potential conflict of interest include:

- 7.4.1 a display of favouritism in an official transaction, on the basis of family relationships; or
- 7.4.2 using confidential information or TFN equipment for personal gain or advantage.

8. Grievance Procedure-Resolving Disputes Between Employees and TFN Members

- 8.1 All written grievances against employees by TFN members will be brought to the attention of the Administrator who will attempt to resolve the dispute within 10 working days. The Administrator will hold private meetings with the employee and the TFN member to work out an acceptable solution. In the event that the dispute cannot be so resolved, it will be brought to the attention of Chief and Council for a decision.
- 8.2 If the grievance is brought against the Administrator, the matter will be brought to the attention of Chief and Council for a decision.
- 8.3 The employee who is the subject of the grievance shall be given a copy of the grievance and notice of the time and place of any meeting at which the grievance will be discussed, and shall be given an opportunity to be heard at the meeting, to question the TFN member submitting the grievance, and to present evidence.

9. Termination of Employment

9.1 Termination Without Notice for Cause

- 9.1.1 An employee may be terminated from employment without notice for cause.

9.2 Cause for Termination

- 9.2.1 Cause for termination shall include, but not be limited to:

a. Breach of Confidentiality

- (1) It is a condition of employment that all matters pertaining to the operation of TFN or TFN owned entities be treated by all employees as strictly confidential in nature. Without limiting generality, these are the areas that would be considered “breach of confidentiality”: any or all matters pertaining to the budget (including those applying to non band members) or personnel matters, or any matter that may prejudice or benefit the employee or TFN.
- (2) Breach of confidentiality by an employee may be cause for immediate termination of employment without notice or, at the discretion of the Administrator, the institution of

progressive discipline procedures against the employee as provided in section 9.3.

- (3) Employees working with the Social Development office, or employees working in cooperation with that department, will not be in breach of confidentiality if they are acting in compliance with the written policies and procedures which govern their conduct.

b. Unauthorized Absence

- (1) Unauthorized absence from work may result in immediate termination of employment without notice, or, at the sole discretion of the Administrator, the institution of progressive discipline procedures against the employee as provided in section 9.3.
- (2) An employee providing a false reason for an absence from work will be subject to progressive discipline procedures as set out in section 9.3.

c. Drug or Alcohol Use

- (1) Employees shall refrain from drug or alcohol use during hours of work. Breach of this provision will result in the institution of progressive discipline procedures against the employee as provided in section 9.3.
- (2) Progressive discipline procedures will also be instituted against an employee having a drug or alcohol problem which negatively affects performance on the job.

d. Insolence or Insubordination

- (1) Insolent or insubordinate conduct of an employee towards any other employee, client, TFN member, supervisor, the Administrator or a member of Chief and Council may result in the immediate termination of employment without notice or, at the sole discretion of the Administrator, the institution of progressive discipline procedures against the employee as provided in section 9.3.

e. Excessive Tardiness

- (1) Excessive tardiness may result in immediate termination of employment without notice or, at the discretion of the Administrator, the institution of progressive discipline procedures against the employee as provided in section 9.3.

f. False or Misleading Information

- (1) All employees are expected to carry out their tasks honestly and with integrity, and to accurately and promptly record their time on the time sheets provided for that purpose. An employee found to have provided any false or misleading information to another employee, a supervisor, the Administrator or a member of Chief and Council, or to have falsified a time sheet, will be subject to immediate termination of employment without notice or, at the discretion of the Administrator, the institution of progressive discipline procedures against the employee as provided in section 9.3.

g. Criminal Code Offences

- (1) An employee committing a Criminal Code or other offense, the nature of which is inconsistent with the proper fulfillment of his or her duties, including without limiting generality, theft of TFN property or documents, other theft or fraud, or operating a motor vehicle under the influence of alcohol and/or drugs, will be subject to immediate termination of employment without notice or, at the discretion of the Administrator, in consultation with Chief and Council, the institution of progressive discipline procedures against the employee as provided in section 9.3.

h. Incompetent or Substandard Performance

- (1) Incompetent or substandard performance may result in immediate termination of employment without notice or at the discretion of the Administrator, in consultation with Chief and Council, the institution of progressive discipline procedures against the employee as provided in section 9.3.

i. Material Breach of the Policies and Guidelines

- (1) Material breach of the Policies and Guidelines, the job description for the employee, or the terms of any written employment contract for the employee, may result in immediate termination of employment without notice or, at the discretion of the Administrator, in consultation with Chief and Council, the institution of progressive discipline procedures against the employee as provided in section 9.3.
- (2) A material breach is one which actually or potentially causes substantial injury, loss or damage to TFN.

j. Harassment

- (1) In these Policies and Guidelines, “**sexual harassment**” means any conduct, comment, gesture or contact of a sexual nature:
 - (A) that is likely to cause offence or humiliation to any employee; or
 - (B) that might, on reasonable grounds, be perceived by that employee as placing a condition of a sexual nature on employment or on any opportunity for training or promotion.
- (2) TFN will take such disciplinary measures as TFN deems appropriate against any person under the direction of TFN, who subjects any employee, client or TFN member, to harassment, intimidation, or bullying, any of which is sexual, emotional or physical, and all of which is called “**Harassment**”. “Harassment” includes “sexual harassment”.
- (3) Any such Harassment by a TFN employee, may result in immediate termination of employment without notice or, at the discretion of the Administrator, in consultation with Chief and Council, the institution of progressive discipline procedures against the employee as provided in section 9.3.
- (4) Every employee is entitled to employment free of Harassment.
- (5) TFN shall make every reasonable effort to ensure that no employee is subjected to Harassment.
- (6) Complaints of Harassment shall be in writing and may be directed to any of the Administrator or the Chief.
- (7) TFN will not disclose the name of the person complaining of Harassment or the circumstances related to the complaint to any person, except where disclosure is necessary for the purposes of investigating the complaint or taking disciplinary measures in relation thereto.
- (8) The discriminatory practices provisions of the *Canadian Human Rights Act* apply to the rights of persons who seek redress under that act for sexual harassment.

k. Human Rights

- (1) Any discrimination by an employee against any other employee, client or TFN member on the basis of race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or conviction for an offence for which a pardon has been granted, may result in immediate termination of employment without notice or, at the discretion of the Administrator, in consultation with Chief and Council, the institution of progressive discipline procedures against the employee as provided in section 9.3. This clause is subject to clauses (2) and (3).
- (2) It is not a discriminatory practice for TFN to adopt or carry out a special program, plan or arrangement designed to prevent disadvantages that are likely to be suffered by, or to eliminate or reduce disadvantages that are suffered by members of TFN, persons having status under the *Indian Act* of Canada, and other persons of indigenous descent, when those disadvantages are based on or related to a prohibited ground of discrimination under the *Canadian Human Rights Act*, being race or colour, by improving opportunities respecting goods, services, facilities, accommodation or employment in relation to those groups.
- (3) The *Canadian Human Rights Act* is to be interpreted and applied in a manner that gives due regard to TFN legal traditions and customary laws, particularly the balancing of individual rights and interests against collective rights and interests, to the extent that they are consistent with the principle of gender equality.

9.2.2 Any cause for termination set out in subparagraphs 9.2.1 a. to k. above may, at the discretion of the Administrator in consultation with the Chief and Council, result in the immediate suspension of the employee in question without pay, until the allegation against the employee can be investigated by the Chief and Council, with the assistance of the Administrator. The R.C.M.P. will be asked by Chief and Council to conduct an investigation of alleged Criminal Code or other offences.

9.2.3 The employee who is the subject of the investigation shall be given reasonable notice of the subject matter of the investigation and of the time and place of any hearing, and shall be given an opportunity, in person or by counsel, to be heard at the hearing, to cross-examine witnesses and to present evidence.

- 9.2.4 If, upon completion of Chief and Council's investigation, the Council forms the opinion that the allegation against the employee is well founded, the employee will be terminated immediately without notice for cause. If Chief and Council find the evidence to be insufficient, the employee will be reinstated and compensated for his or her lost wages.

9.3 Discipline and Termination Procedures

- 9.3.1 Where the Administrator in his or her discretion determines that the employee's misconduct is not serious enough to justify immediate termination for cause, the following progressive discipline procedures shall be followed:

a. Warning:

- (1) The employee will be advised verbally and in writing by the Administrator of the area of concern and the possible consequence of termination of employment for cause, if there is any further misconduct of the same nature. The employee will be put on notice for a period of 90 days during which time the employee will have an opportunity to improve his or her performance in the area of concern. Upon completion of the 90 day period, the Administrator shall provide Chief and Council with an evaluation of the employee's performance in the area of concern, conducted under section 10.4, with any necessary changes in points of detail.
- (2) If the warning is given as a result of drug or alcohol use during hours of work, or as a result of an employee's drug or alcohol problem, the employee will be given the option of taking an extended medical leave without pay for up to three months in accordance with paragraph 5.5.3, in order to seek treatment.

b. Suspension:

- (1) If the employee fails to improve his or her performance in the area of concern by the expiration of the 90 day period provided for in clause 9.3.1 a (1) above, the employee will be advised in writing by the Administrator that he or she is being suspended without pay for a period not to exceed two weeks, and the possible consequence of termination of employment for cause, if there is any further misconduct of the same nature. Upon expiration of the suspension period, the employee will be reinstated and put on notice for a further period of 90 days during which time the employee

will again have an opportunity to improve his or her performance in the area of concern. Upon completion of the second 90 day period, the Administrator will provide Chief and Council with an evaluation of the employee's performance in the area of concern, conducted under section 10.4, with any necessary changes in points of detail.

- (2) If the suspension is given as a result of drug or alcohol use during hours of work, or as a result of an employee's drug or alcohol problem, and the employee has not yet taken an unpaid personal leave in order to seek treatment, the employee will again be given the option of taking an extended medical leave without pay for up to three months in accordance with paragraph 5.5.3 in order to seek treatment.

c. Termination:

- (1) If the employee continues to perform in an unsatisfactory manner in the area of concern during the 90 day period following reinstatement, the employee will be terminated without notice for cause by the Administrator in consultation with Chief and Council, within 10 working days after the end of that 90 day period.
- (2) Upon reinstatement of an employee suspended as a result of drug and/or alcohol use during hours of work, or as a result of a drug or alcohol problem, an employee who has not yet taken an unpaid personal leave in order to seek treatment will continue to be provided with the option of taking an extended medical leave without pay for up to three months in accordance with paragraph 5.5.3, in order to seek treatment. If the employee continues to choose not to seek treatment, and the employee continues to perform in an unsatisfactory manner in the area of concern, the employee will be immediately terminated without notice for cause.
- (3) An employee who has taken an unpaid leave, in order to seek treatment and who continues to have a drug and/or alcohol problem affecting his or her performance on the job, may, at the sole discretion of the Administrator, be provided with further periods of unpaid personal leave in order to seek treatment.
- (4) In the case of termination under clause 9.3.1 c. (2), the dismissed employee will receive two weeks severance pay.

9.4 Appeals and the Appeal Procedure

9.4.1 An employee who has been warned, suspended or terminated pursuant to the progressive discipline procedures set out in section 9.3 may, by statement in writing sent to the Administrator, appeal that disciplinary action. The employee has the right to be represented by an advocate or legal counsel.

9.4.2 The following outlines the appeal process:

- a. The employee's statement shall contain an outline of the employee's reasons for the appeal and must be received by the Administrator within 30 days of the date on which the disciplinary action appealed was imposed.
- b. The Administrator will have ten working days to file a written response, with a copy to the employee.
- c. Once the Administrator has filed a written response, but not later than the expiry of the time period for doing so, the matter will be brought before Chief and Council.
- d. Chief and Council will, within seven working days, meet with the employee, with his or her immediate supervisor, and with the Administrator, to hear the employee's appeal. The employee shall be given reasonable notice of the time and place of the hearing, the opportunity to be heard and to present evidence, and if the employee so chooses, to be present while the evidence against him or her is presented, to dispute anything prejudicial to his or her position, and to question the witnesses against him or her.
- e. Chief and Council will give a decision on the appeal within seven working days of the appeal hearing, or at the next regularly scheduled Council meeting, if that occurs within that seven day period.
- f. Chief and Council may confirm, vary or set aside the disciplinary action appealed from or make any other decision it considers proper.
- g. The decision of Chief and Council is final and binding.
- h. All documentation for the appeal will be held on the employee's personnel file for a five year period subsequent to the date of the disciplinary action which was appealed, after which that documentation shall be removed from that file by the Administrator.

9.5 Severance Pay

9.5.1 Without Cause

If TFN terminates the employment of an employee who has completed twelve consecutive months of continuous employment by TFN, TFN shall, except where the termination is by way of dismissal for just cause, pay to the employee the greater of:

- a. two days wages at the employee's regular rate of wages for his or her regular hours of work in respect of each completed year of employment that is within the term of the employee's continuous employment by TFN; and
- b. five days wages at the employee's regular rate of wages for his regular hours of work.

Those employees who resign are not entitled to severance pay.

9.5.2 With Cause

Employees terminated with cause pursuant to clause 9.3.1 c. (2) will be entitled to two weeks severance pay. All other instances of employees terminated for cause will not be entitled to severance pay.

9.6 Individual Terminations of Employment

9.6.1 If TFN terminates the employment of an employee who has completed three consecutive months of continuous employment by TFN, TFN shall, except where the termination is by way of dismissal for just cause, give the employee either:

- a. notice in writing, at least two weeks before the date specified in the notice, of the intention of TFN to terminate the employment on that date; or
- b. two weeks wages at his or her regular rate of wages for his or her regular hours of work, in lieu of the notice.

9.7 Benefits In Substitution for Common Law Notice Periods

9.7.1 For employees who are terminated without cause on notice, the benefits under paragraph 9.6.1 are in addition to those under paragraph 9.5.1, and are in substitution for any common law notice periods.

10. New Employees

10.1 Recruitment and Selection

- 10.1.1 All new staff positions that are either created or made available by the incumbent resigning or departing for whatever reason, shall be advertised internally first, at the TFN office and in the newsletter, stating the qualifications required, salary and deadline for applications.
- 10.1.2 Existing employees or members of TFN are able to apply for the new staff positions. If no suitable candidate is found within TFN, then the competition will go external to TFN. The Administrator, in consultation with Chief and Council, may run the competition external, and waive the internal competition, if the position requires a broader candidate pool.
- 10.1.3 Chief and Council will review, screen, shortlist and in consultation with the Administrator, interview and select a candidate for each new staff position.
- 10.1.4 Prior to a candidate being hired, references will be checked by the Administrator, and if requested by Chief and Council, a criminal record check will be conducted by the Administrator.
- 10.1.5 Once the most suitable candidate has been found, a written hiring recommendation will be submitted by the Administrator to Chief and Council for final approval.
- 10.1.6 Once approval has been given by Chief and Council, a written offer of employment will be made by letter from the Administrator to the prospective candidate, setting out the terms of employment. Chief and Council will prepare the letter of offer to a prospective Administrator.

10.2 Terms of Employment

- 10.2.1 New employees are entitled to a basic job description, notice of starting salary or hourly rate and notice of any special conditions or benefits, and the probationary period, by way of the letter of offer referred to in paragraph 10.1.6, prior to the start date.
- 10.2.2 The Administrator is responsible for ensuring the new employee has a copy of these Policies and Guidelines and that an orientation process is carried out.
- 10.2.3 The Administrator is also responsible for all appropriate information about the new employee being submitted to payroll or personnel.

10.3 Probationary Period

- 10.3.1 All new employees will be subject to a three or six month probationary period, as determined by the Administrator, or by Chief and Council when the new employee is the Administrator. If the probationary period is not specified in the TFN letter of offer referred to in paragraph 10.1.6, then the probationary period is three months.
- 10.3.2 At any time during the probationary period, the employee may be terminated immediately by written notice from the Administrator, or from Chief and Council where the employee is the Administrator, without notice and without cause.
- 10.3.3 30 days before the end of the probationary period, the Administrator will submit a detailed written evaluation of the employee to the Chief and Council for review. Where the Administrator is the probationary employee, Chief and Council shall make the written evaluation. The employee will also be required to file a written self evaluation, in accordance with subparagraph 10.4.4 c.
- 10.3.4 The Administrator in consultation with Chief and Council will make a decision, based on a review of the evaluations, whether to continue the employment of the new employee after the probationary period. Chief and Council shall make this decision alone, where the probationary employee is the Administrator.
- 10.3.5 The probationary period could also be extended once for another three to six months, as determined by the Administrator in consultation with the Chief and Council, but not to exceed 12 months in total. Chief and Council shall make this decision alone, where the probationary employee is the Administrator.
- 10.3.6 The Administrator will issue a written notice of decision to the employee, advising as to the employee's status at the end of the probationary period, within five working days of the decision. Chief and Council shall issue this written notice, where the probationary employee is the Administrator.

10.4 Employee Evaluation

- 10.4.1 Each employee will have an annual evaluation by the Administrator of job performance, near the anniversary of his or her start date. Where the employee is the Administrator, Chief and Council shall perform all the evaluation functions of the Administrator listed in this section.
- 10.4.2 These evaluations will be used to assess employee performance, to assess salary or hourly wage level, to assist the employee in developing skills and abilities, and to make changes in job descriptions.

10.4.3 New employees will have a performance evaluation by the Administrator near the end of the probationary period.

10.4.4 The evaluation procedure is as follows:

- a. On starting employment and on each anniversary of the start date, the Administrator and the employee will develop a work plan for the following year, upon which both parties agree.
- b. The work plan will be the basis for any probationary employee evaluation and the next annual employee evaluation, and will be assessed by the Administrator to see if it was completed by the employee, and to what degree of satisfaction.
- c. At the time of each employee evaluation, the employee will also make a written self evaluation.
- d. The Administrator and the employee will discuss both the evaluation by the Administrator and the employee's self evaluation. The employee may make any written comments on the evaluation by the Administrator, and then both will sign off on it. Both the employee's self evaluation and the Administrator's evaluation will be put on the employee's personnel file.
- e. The evaluation procedure will assess these broad categories:
 - (1) Employee's performance in accordance with the job description;
 - (2) Employee's ability to interpret and carry out directives from supervisors and the Administrator;
 - (3) Employee's ability to work cooperatively with co-workers; and
 - (4) Review of written reports, proposals, and general correspondence prepared by the employee.
- f. An employee who disputes an evaluation by the Administrator may file an appeal, and the process and timelines set out in paragraphs 9.4.1 and 9.4.2 will apply, with any necessary changes in points of detail. Where the Administrator appeals an evaluation by Chief and Council, the appeal shall be heard by an adjudicator, agreed to by the parties, and failing agreement, then as determined by the external accountants of TFN, whose decision as to the name of the adjudicator shall be final and binding and not subject to appeal. The costs of the adjudicator shall be paid by TFN, with

both the Administrator and TFN bearing their own costs of representation to the adjudicator.

11. Job Descriptions

11.1 Each position at TFN will have a job description, determined and amended from time to time by the Administrator in consultation with Chief and Council, which outlines the roles, responsibilities and duties of that position. In the event of a conflict between any job description and these Policies and Guidelines, the relevant provisions of these Policies and Guidelines shall apply.

12. Resolving Conflicts

12.1 Employment Contracts

12.1.1 In the event of a conflict between any written employment contract made by TFN and a TFN employee, and these Policies and Guidelines, the relevant provisions of the employment contract shall apply.

12.1.2 In the event of a conflict between any employment contract made by TFN and a TFN employee, and the applicable job description, the relevant provisions of the employment contract shall apply.

12.2 Canada Labour Code

12.2.1 Division I, Hours of Work, and Division XIV, Unjust Dismissal, of the *Canada Labour Code*, do not apply to the Administrator, by reason of sections 167(2) and (3) of the Code.

12.2.2 In the case of a conflict between the *Canada Labour Code* and either these Policies and Guidelines, an employment contract, or a job description, the provisions of the Code shall apply, except if a more favourable benefit for the employee is set out in these Policies and Guidelines, an employment contract, or a job description, in which case the more favourable benefit shall apply as provided by section 168(1) of the Code.

13. Privacy and Confidentiality

13.1 Access to Employee Personnel Files

13.1.1 The Chief, each Councillor and the supervisor of the employee and that employee shall have access to the personnel file of that employee, which access is obtained through the Administrator.

13.1.2 The Administrator shall have the care and control of, and unrestricted access to, the personnel file for each employee, including for either legal or accounting purposes or advice.

13.1.3 Except for the access authorized by paragraphs 13.1.1 and 13.1.2, the personnel file of each employee shall be confidential. The personnel files shall be stored by the Administrator in a secure manner.

13.2 Confidentiality

13.2.1 Confidential information includes all activities and transactions of both TFN and TFN owned companies and businesses, recruitment discussions, funding proposals, employee disciplinary actions, correspondence, conversations, contractual and supplier agreements, financial information including budgets and information obtained about program applications or clients.

13.2.2 All employees will keep strictly confidential all confidential information acquired during the course of employment. Employees acknowledge that TFN owns all confidential material and information, and will not use, copy, duplicate or disclose to third parties any such items without the express written consent from the Administrator or Chief and Council. Employees will take reasonable precautions to prevent confidential information from being discovered, used or copied by third parties.

13.2.3 Confidential information shall not be disclosed to other TFN employees or members including family members, the general public, other First Nations organizations, or to outside organizations or interest groups, without the prior written authorization of either the Administrator or Chief and Council, or as required by law.

13.3 Privacy

13.3.1 All employee records, and other matters dealt with for each employee under these Policies and Guidelines are subject to privacy legislation and will not be disclosed except as required by law, authorized by these Policies and Guidelines, or with the express permission of the employee concerned.

13.3.2 All grievances or complaints about employees will be dealt with by private meetings.

14. Reviewing and Amending

14.1 These Policies and Guidelines may be reviewed by Chief and Council both with the TFN employees and with a general assembly of the TFN members, before each succeeding second anniversary of their enactment, for the purpose of determining what substantive amendments are required.

14.2 Any substantive amendments to these Policies and Guidelines will be presented to a general assembly of the TFN members for approval in principal, prior to being presented to Chief and Council for enactment by resolution.

14.3 Chief and Council may by resolution make minor or technical changes in wording in these Policies and Guidelines, provided that the changes do not:

14.3.1 alter the substantive effect or intent of any provision; or

14.3.2 prejudice the rights of any employee of TFN, the Administrator, Chief and Council, or TFN.

15. Reporting, Monitoring and Compliance

15.1 Purpose

15.1.1 The purposes of these Policies and Guidelines are to:

- a. support effective personnel management by provision of clear direction to employees on the scope and limitation of their functions and responsibilities;
- b. maintain efficient operations of TFN;
- c. provide consistency, equity and fairness in TFN treatment of employees, and in the treatment by TFN employees of each other, TFN members and TFN clients;
- d. ensure the quality of service delivery by TFN employees to the TFN members and clients; and
- e. provide clear reporting lines of authority to ensure responsiveness and accountability by the TFN employees to both the TFN members and to Chief and Council.


15.2 Statistics

15.2.1 Chief and Council may request the Administrator to prepare a report dated as of each succeeding anniversary of the enactment of these Policies and Guidelines to determine how these Policies and Guidelines are assisting TFN and its employees in meeting the purposes outlined in section 15.1, what reporting mechanisms have been implemented and what statistical information has been collected over the preceding year which is of

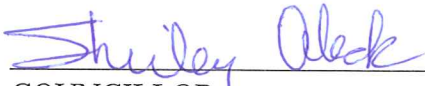
assistance in monitoring the effectiveness of and compliance with these Policies and Guidelines.

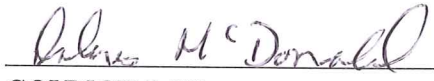
THE TS'KW'AYLAXW FIRST NATION HEREBY RESOLVES BY CONSENT of a majority of the Councillors of the Nation present at a meeting of the Council duly convened and held on the 15 day of Feb, 2010 that the foregoing Items A. and B., and Articles 1-15 are enacted as the Employee Policies and Guidelines for Ts'kw'aylaxw First Nation.


CHIEF


COUNCILLOR


COUNCILLOR


COUNCILLOR


COUNCILLOR

COUNCILLOR

