

COLLECTIVE BARGAINING AGREEMENT
CONTRACT BETWEEN

THE DEPARTMENT OF THE INTERIOR
ASSISTANT SECRETARY – INDIAN AFFAIRS
BUREAU OF INDIAN AFFAIRS
BUREAU OF INDIAN EDUCATION
OFFICE OF THE SECRETARY/
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS

AND

FEDERATION OF INDIAN SERVICE EMPLOYEES
AMERICAN FEDERATION OF TEACHERS
LOCAL 4524
AFL-CIO

Table of Contents

Article 1 – Recognition and Unit Description	11
Section 1. Recognition	11
Section 2. Unit	11
Section 3. Coverage of the collective Bargaining Agreement	11
Article 2 - Effect of Law and Regulation.....	12
Section 1. Hierarchy.....	12
Section 2. Agreement Provisions.....	12
Article 3 – Union Rights, Representation, and Official Time	13
Section 1. Authority	13
Section 2. Contact.....	13
Section 3. Visitation	13
Section 4. Labor Management Relations Meeting	13
Section 5. Representation Rights and Responsibilities	14
Section 6. Official Time	14
Section 7. Labor Management Relations Training.....	16
Section 8. Internal Union Business	17
Article 4 – Employee Rights	18
Section 1. Collective Bargaining Rights.....	18
Section 2. Voluntary Dues	18
Section 3. Accountability	18
Section 4. Weingarten Rights	19
Article 5 - Management Rights	21
Section 1. Retained Rights	21
Section 2. Applicability of Management Rights.....	21
Section 3. Negotiation Limits.....	21
Article 6 - Voluntary Allotment of Union Dues	23
Section 1. Deduction Provisions	23
Section 2. Dues Changes.....	23
Section 3. Allotments.....	23

Section 4. Remittance.....	23
Section 5. Cancellation	23
Article 7 - Information and Publications.....	25
Section 1. List of Employees	25
Section 2. Publications.....	25
Section 3. Telephone/Telefax Service	25
Section 4. Internal Mail Service	25
Section 5. Facilities and Equipment.....	25
Section 6. Website Postings	26
Article 8 – Orientation of New Employees	27
Article 9 – Equal Employment Opportunity (EEO) and Sexual Harassment	28
Section 1. Policy.....	28
Section 2. Nomination of Counselors	28
Section 3. Sexual Harassment	28
Section 4. Avenues of Redress.....	29
Section 5. Information and Counseling	29
Article 10 – Safety and Health	30
Section 1. Purpose	30
Section 2. Imminent Unsafe Danger Situations.....	30
Section 3. Reporting Accidents.....	30
Section 4. Emergency Aid Procedure and Follow-Up.....	31
Section 5. Counseling.....	31
Section 6. Review of Reports	31
Section 7. Reporting Unsafe Conditions.....	31
Section 8. Safety Inspections.....	32
Section 9. Protective Equipment	32
Section 10. Violence in the Workplace.....	32
Section 11. Safety Committees and Councils	32
Section 12. Visual Display Terminals	32
Section 13. Unusual Conditions.....	33
Section 14. Blood Borne Pathogens/Bodily Fluids Protection.....	33

Section 15. Drug Testing Program	34
Section 16. Smoking at Work.....	35
Section 17. Food Service Safety.....	36
Section 18. Safety Awareness.....	36
Section 19. Continuation of Operations Plan (COOP)	36
Article 11 – Government Furnished Quarters	37
Section 1. Availability.....	37
Section 2. Assignment	37
Section 3. Surveys and Determination of Rates	38
Section 4. General Conditions	38
Section 5. Payroll Deduction.....	39
Section 6. Quarters Committees	39
Article 12 – Travel and Travel Related Expenses	41
Section 1. Travel Time	41
Section 2. Travel Vouchers	41
Section 3. Gainsharing.....	42
Article 13 – Workweek and Hours of Work	43
Section 1. Hours.....	43
Section 2. Alternative Work Schedules	43
Section 3. Shift Assignments.....	48
Section 4. Rest Breaks.....	48
Section 5. Meal Time	48
Section 6. Holidays	48
Section 7. Altering Schedules	48
Article 14 - Telework	49
Section 1. Purpose	49
Section 2. Telework Agreement	49
Section 3. Participation Criteria for the Telework Program	49
Section 4. Coverage of Office Functions.....	51
Section 5. Time Frames	51
Section 6. Operating Principles.....	52

Section 7. Recall.....	53
Section 8. Travel	53
Section 9. Termination	53
Section 10. Grievability.....	54
Section 11. Issue Resolution	54
Article 15 – Overtime/Compensatory Time	55
Section 1. Employee Assignments.....	55
Section 2. Distribution	55
Section 3. Excusal	55
Section 4. Callback Pay	55
Section 5. Compensatory Time.....	55
Section 6. Altering Schedules	56
Article 16 – Career Seasonal Positions	57
Section 1. General	57
Section 2. Vacancies	57
Section 3. Employment.....	57
Section 4. Benefits	57
Section 5. Policy Changes During Seasonal Layoff.....	57
Section 6. Notification of Seasonal Layoff	57
Section 7. Leave for Employees During Seasonal Layoff	57
Article 17 - Leave	58
Section 1. Coverage	58
Section 2. Annual Leave.....	58
Section 3. Sick Leave.....	58
Section 4. Family Friendly Leave Policies.....	60
Section 5. Military Leave	62
Section 6. Administrative Leave/Excused Absence	63
Section 7. Leave Without Pay	64
Section 8. Compensatory Leave	64
Section 9. Court Leave	64
Section 10. Inclement Weather Conditions.....	65

Section 11. Religious Leave	65
Article 18 – Merit Promotion and Non-Competitive Promotions.....	66
Section 1. General	66
Section 2. Application o Competitive Procedures	66
Section 3. Locating Candidates and Publicizing Vacancies	68
Section 4. Basic Eligibility.....	68
Section 5. Candidates	68
Section 6. Selection	68
Section 7. Career Ladder Promotions.....	68
Section 8. Temporary Promotions.....	68
Article 19 – Awards Program	70
Section 1. Purpose	70
Section 2. Publicity of Criteria and Results.....	70
Section 3. General	70
Article 20 – Position Descriptions	71
Section 1. Position Descriptions	71
Section 2. Change to Position Description	71
Section 3. Classification and Appeal Options	71
Article 21 – Performance Standards and Evaluation	73
Section 1. General	73
Section 2. Performance Plan	73
Section 3. Monitoring/Progress Reviews	73
Section 4. Rating.....	73
Section 5. Performance Improvement Plan (PIP).....	74
Section 6. Group Sessions and Training.....	75
Article 22 – Actions Based on Unacceptable Performance	76
Section 1. Conditions for Removals or Reduction in Grade	76
Section 2. Final Decision	76
Section 3. Appeal Options	76
Article 23 – Discipline and Adverse Actions.....	77
Section 1. General	77

Section 2. Representation	77
Section 3. Notice.....	77
Section 4. Action by the Deciding Official.....	78
Section 5. Crime Provision and Indefinite Suspension	79
Article 24 – Alternative Dispute Resolution (ADR)	80
Section 1. Overview.....	80
Section 2. Grievance Mediation	80
Article 25 – Grievance Procedure.....	83
Section 1. Purpose	83
Section 2. Definition	83
Section 3. Exclusions.....	83
Section 4. Other Applicable Procedures.....	84
Section 5. Representation	85
Section 6. Resolution.....	85
Section 7. Procedure	85
Section 8. Exchange of Information.....	86
Section 9. Step 1 Grievance	86
Section 10. Response to Step 1	87
Section 11. Step 2 Grievance	87
Section 12. Response to Step 2	87
Section 13. Step 3 Grievance	88
Section 14. Response to Step 3	88
Section 15. Expedited Grievance Procedure	88
Section 16. Management Grievances.....	88
Section 17. Union Grievances.....	88
Section 18. Time Limits.....	89
Section 19. Cancellation	89
Article 26 - Arbitration	90
Section 1. General	90
Section 2. Grievability/Arbitrability.....	90
Section 3. Arbitrator’s Authority	90

Section 4. Expedited Arbitration Procedures	90
Section 5. Invoking Arbitration	90
Section 6. Hearing Site.....	91
Section 7. Arbitration Panel.....	91
Section 8. Notification of Selected Arbitrators.....	91
Section 9. Exclusive Panel.....	91
Section 10. Mediation	91
Section 11. Decisions.....	91
Section 12. Visitors	92
Section 13. Witness Work Schedules	92
Section 14. Scheduling of Arbitration.....	92
Section 15. Withdrawal	92
Section 16. Arbitrator’s Fees	92
Section 17. Witnesses and Representatives.....	92
Section 18. Attorney’s Fees	93
Section 19. Exceptions.....	93
Section 20. Back Pay Awards	93
Article 27 - Training.....	94
Section 1. Determination.....	94
Section 2. Training Program	94
Section 3. Union Sponsored Training	94
Section 4. Scheduling.....	94
Section 5. Records	95
Section 6. Expenses	95
Section 7. Use of Equipment	95
Section 8. Self-Development	95
Article 28 – Motor Vehicle Operation	96
Article 29 – Law Enforcement	97
Section 1. General	97
Section 2. Purpose	97
Section 3. Code of Conduct	97

Section 4. Uniforms, Weapons and Safety Equipment	97
Section 5. Court Appearances	97
Section 6. Training	98
Section 7. Awards	98
Section 8. Surveys	98
Article 30 – Education Personnel System	99
Section 1. Employment.....	99
Section 2. Employment Contract.....	99
Section 3. Probationary Period.....	99
Section 4. Contract Renewal/Non-Renewal	100
Section 5. Temporary Position	101
Section 6. Vacation/Personal Leave	101
Section 7. Education Leave for Status Quo Education Employees	102
Section 8. Sick Leave	102
Section 9. Sick Leave Donor Bank.....	103
Section 10. Family and Medical Leave Act	105
Section 11. Military Leave	106
Section 12. Administrative Leave/Excused Absence	107
Section 13. Leave Without Pay	107
Section 14. Pay Setting Practices.....	108
Section 15. Stipends	109
Section 16. Prompt Pay or Supplemental Pay	110
Article 31 – Education Activities	112
Section 1. Classroom Activities.....	112
Section 2. School Calendar	112
Section 3. Formula Funding.....	112
Section 4. School Boards	113
Section 5. Lunch Periods.....	113
Section 6. Teaching Assignments	113
Section 7. Inclement Weather Conditions.....	113
Section 8. Interruptions.....	113

Section 9. Emergency Conditions	113
Section 10. Qualified Substitutes	114
Section 11. Instructional Planning Time	114
Section 12. Reporting Periods	114
Section 13. Student/Teacher Ratios	115
Section 14. Director’s Staffing Differential	115
Section 15. Faculty Lounge and Facilities	115
Article 32 – Reduction in Force (RIF)/Placement.....	116
Section 1. Policy.....	116
Section 2. Procedure	116
Section 3. Authorized Official Time	118
Section 4. Placement	119
Section 5. Personnel Files	120
Section 6. Labor-Management Cooperation	120
Section 7. Eligibility.....	121
Section 8. Duration	121
Article 33 – Contracting Out Work	122
Section 1. Notice to Union.....	122
Section 2. Notice to Tribes.....	122
Section 3. Grant Funding	122
Article 34 – Negotiation and Supplementation.....	123
Section 1. General	123
Section 2. Interest Based Bargaining	123
Section 3. National Level Negotiations.....	123
Section 4. Bureau/Office Level Negotiation	124
Section 5. Negotiations at the local Worksite	124
Section 6. Local Supplements	125
Section 7. Content of Notice	126
Section 8. Approval of Supplemental Agreements.....	127
Section 9. Past Practices	127
Section 10. Negotiability.....	127

Section 11. Exclusions for current Wage Bargaining Worksites.....	128
Section 12. Time Limits.....	128
Article 35 – Strikes and Picketing.....	129
Article 36 – Duration and Extent of Agreement.....	130
Section 1. Effective Date and Term.....	130
Section 2. Effective Date of Amendments and Supplements.....	130
Signature Page.....	131
Definitions.....	132
Appendix A – Unit Definition.....	141
Appendix B – Union Official Time Request/Approval Form.....	151
Appendix C – Weingarten Rights.....	153
Appendix D – Douglas Factors.....	155
Appendix E – Grievance Worksheet.....	157
Appendix F – Sample Arbitrator Notification Letter.....	161
Appendix G – Leave Bank Program for Contract Education Employees.....	163
Appendix H – Employee Rights and Responsibilities Under the Family and Medical Leave Act.....	192
Appendix I – Department of Labor Fact Sheet #28: the Family and Medical Leave Act of 1993.....	194
Appendix J – Certification of Health Care Provider for Employee’s Serious Health Condition (FMLA) Form WH-380-E.....	200
Appendix K – Certification of Health Care Provider for Family Member’s Serious Health Condition (FMLA) Form WH-380-F.....	205
Appendix L – Certification for Serious Injury or Illness of Covered Service Member for Military Family Leave (FMLA) Form WH-385.....	210
Appendix M – Certification of Qualifying Exigency for Military Family Leave (FMLA) Form WH-384..	215
Appendix N – Reduction In Force Procedures.....	219
Appendix O – Reduction In Force Placement Assistance Request Form & DOI Reemployment Priority List Application Form.....	221
Appendix P – Suspected Child Abuse & Neglect (SCAN) Information.....	226

Article 1

Recognition and Unit Description

Section 1. Recognition

The Assistant Secretary – Indian Affairs, Bureau of Indian Affairs Director, Bureau of Indian Education Director, and Office of the Special Trustee for American Indians, Special Trustee for American Indians and all the respective designees for each office/bureau (henceforth “Management”) recognizes that the Federation of Indian Service Employees (FISE) Local 4524, AFT, AFL-CIO is the exclusive representative of all employees in the consolidated bargaining unit as certified in Federal Labor Relations Authority (FLRA) Case WA-RP-08-0087, dated May 21, 2009.

Section 2. Unit

This Agreement is applicable to the Department of the Interior employees as reproduced in Appendix A of this Agreement. This Agreement will apply to any additional employees for whom FISE is certified as exclusive representative upon amendment of the certification referred to in FLRA Case WA-RP-08-0087 above.

Section 3. Coverage of the Collective Bargaining Agreement

This agreement covers all bargaining unit employees except where otherwise noted.

Article 2

Effect of Law and Regulation

Section 1. Hierarchy

In the administration of all matters covered by this agreement, the Parties are governed by Federal Law, Government-wide rules or regulations in effect upon the effective date of this Agreement, and Government-wide rules or regulations issued after the effective date of this Agreement that do not conflict with this Agreement. This section does not change the obligation of Management to notify the Union of any changes in government wide regulations which occur during the life of this Agreement or alter the Union's right, pursuant to Chapter 71 of 5 USC, to negotiate over the impact of such changes.

Section 2. Agreement Provisions

To the extent that provisions of Management's regulations, policies, procedures, internal manuals, internal rules and regulations (including 62 BIAM 11) are in conflict with this Agreement, the provisions of this Agreement will govern.

Article 3

Union Rights, Representation, and Official Time

Section 1. Authority

The Union is the exclusive representative of the bargaining unit and is entitled to act for these employees in negotiations and joint meetings with Management regarding personnel policies, practices, and matters affecting working conditions.

Section 2. Contact

- A. The Union will provide Management biannually (January and July) with a list of, and contact information for, Union officers, stewards, staff, and other representatives that are authorized to act on its behalf and shall promptly notify Management of any changes. Management agrees to recognize and cooperate with designated representatives of the Union, including staff and other Union representatives who are not agency employees.
- B. Management shall also provide the Union biannually (January and July) with a list of, and contact information for, representatives who are authorized to act on its behalf and shall promptly notify the Union of any changes. This list shall include the Human Resources Labor Relations Specialists authorized to act for Management in a labor relations capacity and the scope of their jurisdictions or responsibility.
- C. The lists supplied by the Union and Management shall include one person who will serve as the parties' chief point of contact and who will be authorized to act for each party at the national level concerning all matters involved in the administration of the Agreement.

Section 3. Visitations

The Union shall provide notice to Management of visits by representatives of the Union who are not agency employees. Notice will be given twenty-four (24) hours in advance to the local site manager with a courtesy copy to the Servicing Labor Relations Office. If advance notice is given, Management will attempt to arrange for a convenient time for the Union official to meet with the necessary party(s). If official notice is given less than twenty-four (24) hours in advance of the visit, the Union recognizes that a particular employee(s) may not be available when requested.

Section 4. Labor Management Relations Meeting

There will be an annual meeting between FISE Executive Council representatives and Management representatives to provide both parties an opportunity to develop an understanding of problems relating to the Labor Management Relations (LMR) Program and to discuss outstanding concerns. This meeting may be initiated by either party. The parties will exchange an agenda no later than twenty-one (21) work days in advance of the meeting. The meeting will be held at a location and at a time consistent with another planned Union meeting to be mutually agreed upon. Union members will be in official

time for the days required to attend the LMR meeting, pursuant with Section 7.A. of this article. Management will pay the cost of travel and per diem for four LMR Union participants. Nothing in this article will affect existing labor/management collaborations on the local level.

Section 5. Representation Rights and Responsibilities

The Union will be provided advance notice of, and an opportunity to be represented at all formal discussions between Management and employees concerning grievances, personnel policies, procedures and other matters affecting the working conditions of employees in the unit. At any such formal discussion, the Union representative may ask relevant questions and may make a statement of the Union's position regarding the subject of the meeting. Use of the Government charge card (by Government employees only) is authorized for representational travel.

Section 6. Official Time

The parties recognize that good communications are vital to positive and constructive relationships between the Union and Management. These communications should facilitate and encourage the amicable settlement of disputes between employees and Management involving conditions of employment and should contribute to the effective and efficient conduct of public business.

- A. Block Grant. The Union is hereby granted a bank of twelve thousand (12,000) hours of official time per annum and is subject to the uses and limitations expressed in this Section. The bank of hours includes all representation functions, and training hours on official time, but does not include national negotiations or annual LMR meetings.
- B. Designation of Representatives. The Union will provide Management with a list of Union officials to be released on official time and the amount of hours to be used from the bank on a yearly basis commencing July 1 of each year. Notice will be given no later than sixty-three (63) work days prior to July.
- C. Positions or Functions not subject to the Block Grant.
 - (1) Secretary/Treasurer – A reasonable amount of official time up to ten (10) hours per pay period for the Secretary/Treasurer will be granted for representational purposes subject to the provisions of this agreement.
 - (2) Chief Stewards and Stewards.
 - a. The Union will designate stewards at various organizations having employees in the unit. Normally, the number shall not exceed one (1) steward for every thirty (30) unit employees. At installations having fewer than thirty (30) unit employees, the Union will have one steward to represent employees. At any site, local Management and the local Union representative will determine if there is a need for additional stewards with the concurrence of the Bureau/Office Labor Relations Officer and the Union President or their designees. Union

representatives may receive, investigate and present grievances or appeals or other representational duties under this agreement during duty hours.

- b. Official time for representational duties for a Chief Steward will not exceed twenty (20) hours per pay period and for other stewards will not exceed ten (10) hours per pay period. Exceptions may be made on a case-by-case basis when additional time is necessary, however, a denial will not be made without written justification.
- c. Recognizing the right and responsibility of the Union to appoint stewards and officers, reasonable use of another steward or representative will be accepted in the absence, unavailability, or conflict of interest of the usual steward or representative.

D. Use and Recording of Official Time

- (1) The Union will assist in tracking the use of official time from the bank of hours.
- (2) The Union may combine one Union position with other Union positions. Under this scenario, the official time associated with the multiple positions will be combined.
- (3) Official time will only be granted while the employee would otherwise be in a duty status.
- (4) The Union Executive Council shall be authorized official time for representing unit employees in third party proceedings and formal discussions as well as for training authorized under Section 7. This time is charged against the block grant of Section 6.A.
- (5) Chief Stewards and stewards shall be authorized official time in accordance with Section 6.C. (2) (b) to represent the Union at third party proceedings and formal discussions as well as for training authorized under Section 7. This time is not subject to the block grant provisions of subsection A.
- (6) Negotiations under Article 34 and annual LMR meetings between Council and Management are excluded from the block grant provisions of subsection A.

E. Release to Perform Representational Duties. The following provisions do not apply to Union representatives who have been released from duties on an ongoing basis under Section 6B:

- (1) When a representative requests and is granted official time to perform a representational function, he/she will inform the supervisor of the amount of time needed and the category of official time. The Official Time Request Form (see Appendix B) will be used to record official time. All stewards will use the Official Time Request Form when requesting official time. All approvals or disapprovals of official time will result in the Union

representative being given a copy of the form at the time of approval or disapproval. Reason for disapproval will be documented.

- (2) Collaboration between supervisors and Union officials is required to assure that job duties are accomplished and official time is granted, as needed. Union representatives are encouraged to request official time as far in advance as practical.
- (3) If a representative cannot be released when requested due to work related reasons, the representative will be released as soon as practical thereafter. For education employees, the release time may be scheduled in non-contact time such as teacher preparation periods, or in residential programs during the time students are in class or scheduled elsewhere. If a delay in releasing a representative for representational functions involves a situation with a collective bargaining agreement contractual time limit, the time limit will be extended equal to the delay.
- (4) Permission must be obtained by the representative from the supervisor of the employee he/she is to visit in any representational matters.
- (5) The representative will inform the appropriate supervisor upon return to official duties.
- (6) Union officials will be granted official time for contract administration in accordance with the provisions of this agreement to perform such duties as reviewing Management's proposals concerning negotiations and changes in policies, practices and matters concerning working conditions; performing representational functions; receiving, reviewing, preparing and presenting grievances; handling complaints; third party proceedings; preparing for negotiations; negotiating; and contacting other Union officers regarding aforementioned functions.

F. Bargaining Unit Employees.

- (1) Employees in the bargaining unit shall be authorized a reasonable amount of time to meet with their Union representatives to discuss pending or potential grievances.
- (2) A unit employee wishing to leave his/her work area will request, and must receive, permission from his/her supervisor in advance.

Section 7. Labor Management Relations Training

Properly requested and approved official time will be granted to Union officers and representatives selected by the Union to attend Union-sponsored training, subject to workload considerations and provided the training is of mutual benefit to Management and the Union.

- A. A request for official time related to training will be submitted two (2) weeks, but preferably twenty-one (21) work days in advance, to the Management official designated for this purpose. The request will be accompanied by an agenda, if available, or a written description of the

training. The description will give the subject matter, the duration, purpose and nature of the training.

- B. Government owned or General Services Administration (GSA) leased vehicles may be used for travel in accordance with the Federal Travel Regulation (FTR) for training by bargaining unit employees provided:
 - (1) A vehicle is available; and
 - (2) Such use is approved by local management and does not adversely impact on the transportation needs of the installation.
- C. Management agrees to provide space and academic aids (e.g., black boards, projectors, and lap tops), for approved training when requested and if available at the local installation.

Section 8. Internal Union Business

Internal Union business, such as attending Union meetings, will be conducted during the non-duty hours of the employees involved. Upon request, and subject to normal security limitations, the Union representatives shall be granted authority to conduct membership drives during non-duty status and on-site in non-work areas.

Article 4

Employee Rights

Section 1. Collective Bargaining Rights

Each employee shall have the right to form, join, or assist any labor organization, or to refrain from any such activity freely and without fear of penalty or reprisal and each employee shall be protected in the exercise of such right. Except as otherwise provided under this Agreement, such right includes the right:

- A. To act for the labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the Executive Branch of the Government, the Congress, or other appropriate authorities; and
- B. To engage in collective bargaining with respect to conditions of employment through representatives chosen by employees under this Agreement.

Section 2. Voluntary Dues

Nothing in the Agreement will require an employee to become or remain a member of a labor organization or to pay money to the organization except pursuant to a voluntary written authorization by members for payment of dues through payroll deduction or by voluntary cash dues payment by a member.

Section 3. Accountability

- A. Employees are accountable for performance of official duties and compliance with Standards of Conduct for Federal employees as codified as well as applicable DOI policies. Employees shall have a right to engage in outside activities of their choosing without being required to report to Management except as required by law or regulations or outside employment activities that may be a conflict of interest to their federal positions. A conflict of interest is a situation in which an individual has competing interests or loyalties. Management retains the authority to take appropriate actions should it be determined that an employee's off-duty conduct affects his or her ability to meet the position's requirements or the employee's activities undermine the public trust or otherwise affect the efficiency of the service. This does not diminish Management's right to assign official duties in accordance with applicable laws and regulations.

- B. Management will not compel employees to invest their money, donate to charity, or participate without compensation in activities, meetings, or undertakings not related to their performance of official duties. This does not preclude publicity of officially sanctioned programs and savings bond campaigns. Normally, immediate supervisors will not collect pledges or contributions from employees under their supervision.

Section 4. Weingarten Rights

- A. The right of employees to have union representation at investigatory interviews is based on a U.S. Supreme Court case (NLRB vs. Weingarten, Inc., 420 U.S. 251, 88 LRRM 2689) and per 5 USC 7114(a) (2) (B). These rights have become known as the Weingarten rights. An investigatory interview occurs when a supervisor or other representative of Management questions an employee to obtain information which could be used as the basis for discipline or ask an employee to defend his or her conduct. If an employee has a reasonable belief that discipline or other adverse consequences may result from what he or she says, the employee has the right to request union representation.
- B. The employee must make a clear request for union representation before or during the interview. The employee cannot be punished for making the request.
- C. Union Representative involvement at a Weingarten interview include:
 - (1) The representative will be allowed to speak privately with the employee before the interview;
 - (2) During questioning, the representative can interrupt to clarify a question so that the employee can understand what is being asked;
 - (3) If the Weingarten rules are complied with, the representative does not have the right to tell the employee not to answer questions or to give false answers. Employees can be disciplined if they refuse to answer questions.
- D. Management will not impose any restraint, interference, coercion, or discrimination against an employee who exercises his/her right to designate a Union representative.
- E. At the time the employee is contacted to schedule a Weingarten interview, the following information will be provided to the employee:
 - (1) The subject matter of the interview in a much specificity as possible, except when doing so would undermine the investigation; and
 - (2) Whether the employee is the subject of the conduct interview or the employee is being interviewed as a third party witness, if known with certainty and if doing so would not undermine the investigation.
- F. If an employee is represented in an interview and the subject of the interview changes to subjects over which the employee and the representative have not conferred, the employee or the representative may request to confer on such issues.

G. Management will annually communicate to all employees their rights regarding Union representation at the beginning of each year. This annual requirement will be accomplished by a posting on the bureau/office website. The contents of the notification can be found at Appendix C.

Article 5

Management Rights

Section 1. Retained Rights

Management officials of the Agency retain the right in accordance with applicable laws and regulations of higher authority:

- A. To determine the mission, budget, organization, number of employees, and internal security practices of the Agency; and
- B. In accordance with applicable laws:
 - (1) To hire, assign, direct, lay off, and retain employees in the Agency, or to suspend, remove, reduce in grade or pay, or take other disciplinary action against such employees;
 - (2) To assign work, to make determinations with respect to contracting out, and to determine the personnel by which agency operations shall be conducted;
 - (3) With respect to filling positions, to make selections from:
 - a. Among properly ranked and certified candidates for promotion; or
 - b. Any other appropriate source; and
 - (4) To take whatever actions may be necessary to carry out the mission of the Bureau/Office during emergencies.

Section 2. Applicability of Management Rights

The above Management rights shall apply to all supplemental, implementing, subordinate or informal agreements between Management and the Union.

Section 3. Negotiation Limits

Nothing in this Article shall preclude the Parties from negotiating:

- A. At the election of Management on numbers, types, and grades of employees or positions assigned to any organization's subdivision, work project, or tour of duty, or on the technology, methods, and means of performing work;

- B. Procedures which Management officials of the Agency will observe in exercising any authority under this Article; or
- C. Appropriate arrangements for employees adversely affected by the exercise of any authority under this Article by such Management officials.

Article 6

Voluntary Allotment of Union Dues

Section 1. Deduction Provisions

Management will continue to deduct Union dues from the pay of employees in the unit, subject to the following provisions: The Union agrees to procure SF1187s, Request and Authorization for Voluntary Allotment of Compensation for Payment of Employee Organization Dues, and SF-1188's, Cancellation Forms; and furnish them to eligible employees desiring to authorize/cancel an allotment for withholding of dues from their pay, providing that:

- A. The employee's earnings are sufficient to cover the amount of the allotment; and
- B. Union representative has completed and signed Section A of SF-1187 and forwarded it to the appropriate Labor Relations Specialist.

Section 2. Dues Changes

The President or other authorized official of the Union will notify the Bureau/Office Labor Relations Officer when the Union's dues structure changes. The change will be submitted by an appropriate management representative to the payroll servicing provider within ten (10) work days of receipt in accordance with the payroll servicing provider change process.

Section 3. Allotments

Allotments will be effective at the beginning of the first full pay period after receipt of the SF-1187 at the appropriate Human Resources Office, providing such notice is received at least five (5) work days in advance of the beginning of the pay period. Once processed and effective, the dues allotment for a bargaining unit member may not be revoked or cancelled for a period of one (1) year in accordance with 5 USC 7115(a).

Section 4. Remittance

Management will ensure deductions are properly made and remittance made each pay period to the Union.

Section 5. Cancellation

The employee may terminate the deduction of dues by submitting a SF-1188 (or other written substitute) to the Human Resources Office. The Human Resources Office must receive a dues cancellation form at least five work days in advance of the beginning of the pay period for the applicable cancellation date. For employees who have less than one year of dues deductions, the cancellation will be effective on the pay period that begins 52 weeks from when the first dues allotment was taken from the employee's pay

(as long as the cancellation request is received in the Human Resources office at least five (5) work days in advance of the pay period). Once the SF-1188 or other written substitute is processed, the Human Resources Office shall forward a copy to the Union.

Article 7

Information and Publications

Section 1. List of Employees

Management will provide the Union President's office with a bargaining unit roster in an electronic format on a quarterly basis. This roster will identify each unit employee by name, duty location, organization and organizational code, duty station, occupational title and series, pay grade and step, FLSA status, and dues paying status. Mailing addresses for each duty station and a key to the organizational codes will also be provided separately. Lists of new employees will be provided monthly to the President's office. Such lists shall contain the name and duty location of each newly hired bargaining unit employee.

Section 2. Publications

Management agrees to put the Union national office on all appropriate mailing lists of personnel policies and procedures, publications, and Management will notify the local Chief Steward of School Board and Board of Regents meetings. Management agrees to provide any Executive Union Officer, on request, sections of internal agency publications dealing with personnel policies, procedures, and other matters affecting working conditions.

Section 3. Telephone/Telefax Service

Union stewards, chief stewards, and other Union officials will be allowed to use electronic mail (E-Mail), official telephones, and facsimile machines, printers, copy machines or any other standard office equipment for the purpose of conducting representational activities subject to approval of Official Time in accordance with Article 3, Official Time, and as long as representational activities do not interfere with the conduct of office business. Unit employees will be permitted to use E-Mail and telephones to communicate with other employees in accordance with Department and Bureau Internet (and Intranet) and Government Equipment Use policies.

Section 4. Internal Mail Service

The internal mail service of Management, excluding metered, franked, or other paid mail service, shall be available to the Union. Sealed envelopes addressed to or by Union officials shall be processed in a timely manner and not be tampered with.

Section 5. Facilities and Equipment

- A. Each Union official utilizing block grant official time on an ongoing basis shall be furnished, if available, secured private office space, telephones, desks, chairs, lockable file cabinets, computer, word processing programs, and otherwise available customary equipment.

- B. Union Officers and stewards will have access to computers, word processing programs, and printer at his/her duty station and telecommunication equipment, if available. If a private secured office space is not available, a lockable file cabinet will be provided, and the use of the office equipment listed above will be made available for use as permitted and available.
- C. Each Chief Steward may negotiate an agreement concerning office space with concurrence of the FISE President or designee.

Section 6. Website Postings

The Union shall have the right to have information posted on the bureaus/offices websites to include such items as the collective bargaining agreement, related forms, contact information, Union officer names and locations, Union Steward names and locations, other Union staff names, and notification of visits and events. Information related to internal Union business shall not be posted on the websites.

Article 8

Orientation of New Employees

Management will disseminate to new employees a Union informational packet, which will be provided to Management by the Union. The Union is responsible for ensuring the information in the packet is current and up-to-date. The local Union representative will be allowed up to 30 minutes to speak privately about the Union's representational role with new employees during the new employees' first two weeks of employment.

Link to the FISE website: <http://fise-aft.org>

Article 9

Equal Employment Opportunity (EEO) and Sexual Harassment

Section 1. Policy

Within the scope of Indian Preference, Management shall not in any way discriminate for or against an individual regarding employment or conditions of employment because of race, color, religion, sex, national origin, age, sexual preference, or handicapping conditions. This policy shall be in the strictest adherence to both the letter and the spirit of Title VII of the Civil Rights Act of 1964, the Rehabilitation Act, the Equal Pay Act, and all other applicable anti-discrimination laws and regulations.

Section 2. Nomination of Counselors

- A. The Union may nominate employees to serve as EEO counselors. However, conflicts of interest should be considered when making these nominations, i.e., Union Representatives.
- B. Management retains the right to select EEO counselors from among employees nominated by the Union or others, including employees outside the bargaining unit.

Section 3. Sexual Harassment

- A. Management acknowledges that sexual harassment undermines the integrity of the Federal Government and will not be condoned. Merit System principles require that all employees be allowed to work in an environment free from sexual harassment. Further, sexual harassment is a prohibited personnel practice when it results in discrimination for or against an employee on the basis of conduct not related to performance, such as the taking, or refusal to take, a personnel action, including promotion of employees who submit to sexual advancement or refusal to promote employees who resist or protest sexual overtures.
- B. Definition. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that constitutes sexual harassment when:
 - (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
 - (2) Rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 - (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Section 4. Avenues of Redress

Employees who believe they have been discriminated against have the option of filing an EEO complaint through the Agency's EEO administrative complaint process or filing a grievance under the negotiated grievance procedure contained in this document, but not both. However, an employee who has contacted an EEO counselor and initiated an informal EEO complaint shall not be deemed to have irrevocably chosen to pursue his or her complaint through the formal EEO administrative process; only the filing of a formal EEO complaint following the informal counseling phase thereafter bars the filing of a grievance under the negotiated grievance procedure. If an employee first contacts an EEO counselor, the time deadline to file a grievance under this agreement does not begin to run until the counseling phase has been completed. Management agrees to strive to resolve allegations of discrimination and sexual harassment in the pre-complaint counseling phase of the EEO administrative remedy process.

Section 5. Information and Counseling

Management will distribute and make available to the Union and employees information on the complaint and counseling processes. Such information will include the names and telephone numbers of counselors, and the location of the appropriate Office of Civil Rights.

Article 10

Safety and Health

Section 1. Purpose

Management will make every effort to provide a safe, clean and sanitary working environment for its employees and will comply with Section 19 of the Occupational Safety and Health Act (OSHA), Executive Order (E.O.) 12196, the Basic Program Elements for Federal Employee Occupational Safety and Health Programs 29 CFR 1960, and other appropriate regulations. Each supervisor and employee will take prompt and appropriate action to report any unsafe action or condition. When safety rules are ignored, supervisors will take appropriate disciplinary or corrective action. Should accidents or sickness occur, the prime consideration will be the welfare of the affected employee(s). Employees retain all rights and responsibilities provided in Section 19 of OSHA, E.O. 12196 and 29 CFR 1960, and other appropriate regulations.

Section 2. Imminent Unsafe Danger Situations

- A. When an employee feels subject to conditions so severe that even short-term exposure to such conditions would be detrimental to health and safety, the employee shall report the circumstances to the immediate supervisor. The supervisor shall inspect the work area or substance in question and analyze the situation to ensure that it is safe (or may be safely handled) before requiring the employee to carry out the work assignment. If there is doubt regarding the safety of the existing condition by the supervisor, an appraisal shall be obtained from the appropriate Management official before proceeding.
- B. If the supervisor determines an unsafe or unhealthy circumstance exists and the supervisor cannot correct the hazard, the supervisor will take preventive action as specified in Section 7B. The employee or group of employees who continue to believe that work is being required under conditions which are unsafe or unhealthy beyond the normal hazards inherent in the operations in question have the right to file a grievance.
- C. When exposed to a work environment in which the employee(s) reasonably believe the duties present an imminent risk of death or serious bodily harm coupled with insufficient time within which to abate the hazard, the employee(s) may temporarily avoid the hazard and promptly notify the supervisor. This does not include inherently hazardous activities for which advance preparations have been made, such as forest fire suppression.

Section 3. Reporting Accidents

All accidents will be reported immediately in accordance with applicable regulations. Time spent in obtaining medical attention by employees taken sick or injured while performing their duties during working hours will be in accordance with the provisions of Management's Leave policies. Administrative leave will be granted to employees requiring medical attention due to job related accidents. The granting of administrative leave is limited to the day in which the accident occurred.

Notice to families of employees involved in job related accidents will be in accordance with Department of Interior policy.

Section 4. Emergency Aid Procedure and Follow-Up

Employees who are exposed to toxic substances on the job will receive physical examinations, as determined necessary by an appropriate health professional, at Management's expense. Such examinations will be of the type and frequency as provided by regulation or as recommended by an appropriate Federal Agency and approved. Health and emergency aid services will be made available to employees in accordance with established Departmental and Bureau/Office health programs and policies. A request may be made for a specific medical surveillance examination for employees who may be exposed to chemicals, radiation, toxic agents, excessive noise, and/or other health hazards. Furthermore, an employee suffering from a medical condition or problem related to the medical surveillance area may be temporarily assigned to another position upon the recommendation of the Chief, Division of Medical and Health Services to the Safety Officer.

Section 5. Counseling

Employees injured or taken ill arising out of employment shall be furnished counseling (at their option) concerning rights and benefits under the provisions of the Office of Workers Compensation Program (OWCP). Each employee will be given a copy of U.S. Department of Labor notice, "When Injured at Work." When an employee cannot perform his/her regularly assigned duties due to illness or injury, as determined by a medical authority, he/she may be temporarily assigned to another job.

Section 6. Review of Reports

Management agrees to provide the Union with a copy of the Annual Report of Injury/Death. The Union representative may review safety reports of hazards filed with Management's Safety Personnel for their location.

Section 7. Reporting Unsafe Conditions

- A. Employees or the Union will inform supervisory personnel when an unsafe or unhealthy working condition is detected. The employee may submit a summary of the problem to Management directly or via the Union or Safety Committee or local Safety Officer. Local Management will report, in writing, to the Union any unsafe or unhealthy working conditions that are reported.
- B. Management will, to the extent feasible, eliminate identified safety and health hazards. When such conditions cannot be readily abated, Management shall inform the Union of a timetable for abatement. Arrangements shall include notifications, warnings, and relocation of employees, if needed, providing information to employees exposed to hazardous conditions and, take other steps as necessary under the circumstances, such as holding informational meetings with affected employees.

Section 8. Safety Inspections

Where safety inspections are conducted, the Union will be notified and a Union representative will be given an opportunity to accompany the inspector.

Section 9. Protective Equipment

Management will provide all required personal protective equipment, clothing, and safety devices (which include, but are not limited to, steel-toed boots or shoes, lab aprons, glasses, etc.) for employees engaged in activities requiring the use of such equipment. Employees shall be required to use these provided items in keeping with Section 1 of this Article. Management will provide for the cleaning and repair of issued equipment or safety devices. Items suitable for reuse remain the property of the Government and must be turned in when an employee leaves the Agency/Office. Where medical prescription or personal corrections are necessary (glasses, shoes, etc.), the employee will pay for the examination. Management will pay in full for getting the prescription filled, i.e. glasses, boots, etc. If the employee feels that the protective equipment may be defective, the immediate supervisor will be notified.

Section 10. Violence in the Workplace

All cases of physical threat or violence to employees shall be reported to the employee's supervisor immediately. If, in the judgment of the employee and/or supervisor, the assault and/or threat are sufficiently severe, the proper law enforcement officials shall be notified. Management will take the circumstance into consideration and determine whether further assistance is necessary. Management will implement a Crisis Intervention Team as prescribed in the "Violence in the Workplace" policy.

Section 11. Safety Committees and Councils

The Union may appoint or nominate a representative to any existing local Safety Committee. The Union may appoint representatives at each activity where a Field Safety and Health Council have been established. Official time to attend such meetings will be in accordance with Article 3.

Section 12. Visual Display Terminals (VDTs)

Management will require that regular maintenance is performed on all VDTs to assure that manufacturer's specifications are met. Operators will be rotated to other duties from the VDT to the extent Management finds this practicable. A VDT operator is defined as one who continuously operates a VDT for six or more hours per day. VDT operators are entitled to a diversion in work of at least 5 minutes per hour away from the terminal. Ergonomic furniture and preventive devices such as wrist braces will be provided when identified in an approved Job Hazard Safety Analysis.

Section 13. Unusual Conditions

- A. An employee, with the exception of those required to provide essential services, may be dismissed from duty, if the employee believes that an extreme temperature is affecting his/her health. The employee should report this to Management.
- B. Management may grant appropriate leave; or, in rare circumstances, administrative leave, to an employee when Management can reasonably conclude that the extremes of temperature have or will incapacitate an employee for duty or that the prevailing condition would adversely affect their health. Management will make a decision based upon the best available evidence. If conditions are serious enough as to actually prevent employees from working, they may be dismissed as a group and placed on appropriate leave.

Section 14. Blood Borne Pathogens/Bodily Fluids Protection

- A. Work locations where employees are likely to be exposed to blood borne pathogens/bodily fluids will be furnished with the following protective equipment:
 - (1) Rubber gloves;
 - (2) Face shields;
 - (3) Eye protection;
 - (4) CPR mouth barrier;
 - (5) Biohazard container;
 - (6) Bleach and containers for mixing with water, one part bleach to 10 parts water.
- B. Employees shall be required to use protective equipment in keeping with this section. The above mentioned materials will be included in first aid kits at appropriate locations such as; athletic facilities, schools, dormitories, first aid stations, police vehicles, detention centers, and locations where first aid kits are provided to fire fighters, etc.
- C. No employee will be required to perform CPR or to expose themselves to blood borne pathogens/bodily fluids without the appropriate protective equipment listed above.

Section 15. Drug Testing Program

- A. There will be no additional or supplemental negotiations at the Area/Agency/ Activity level except as provided in Article 34, of the Master Agreement.
- B. If urine sampling is to be conducted off-site, bargaining unit employees will be provided transportation, if necessary, in accordance with applicable travel regulations. A bargaining unit employee selected for random testing will be notified the same day the test is administered, preferably within two (2) hours of the actual test.
- C. If the urine sample is to be provided on-site, where the temperature of each sample will be taken, precautions in accordance with Department of Health and Human Services (HHS) guidelines will be taken to guard against tainted samples.
- D. If a bargaining unit employee designated for testing is unable to provide sixty (60) milliliters of urine at the time of testing, the employee may be retained until the sample is provided. If the employee is kept past his/her normal tour of duty, the employee will be compensated under appropriate laws and regulations.
- E. If an employee selected for urinalysis wishes to arrange for private testing within twenty-four (24) hours of having provided the sample, the employee may request sick, annual, personal, or leave without pay in accordance with applicable laws, regulations, or this Master Agreement.
- F. A bargaining unit employee may request Union representation at any meeting with a Management representative including the Medical Review Officer (MRO) in discussions concerning confirmed positive test results. The employee may, in writing, request review of any records relating to his/her drug test in accordance with appropriate HHS Regulations.
- G. The Union will be given copies of sanitized laboratory performance test results as provided to the Department.
- H. If the finding is positive, Management will provide information about and access to drug treatment and rehabilitation programs as described under DOI, HHS, Employee Assistance Program guidelines, and this Master Agreement.
- I. Personnel who will administer the drug tests will meet the criteria, standards or requirements of the HHS guidelines.
- J. Drug Testing will not be used to retaliate against bargaining unit employees.
- K. Employees shall not be required to disclose the legitimate use of a specific drug at the outset of the program. Employees will have an opportunity to provide medical documentation supporting legitimate usage upon a confirmed positive test result. Evidence to justify a positive result may include, but is not limited to: a valid prescription or a certificate from the individual's physician verifying a valid prescription. The MRO shall have the final determination.

- L. When a testing designated bargaining unit employee does not wish to submit to testing, he/she may seek reassignment or transfer to non-designated vacant positions through the Merit Promotion Program or Contract Education Recruitment system, as appropriate. Appropriate consideration will be given to their applications in accordance with the applicable recruitment policies. However, bargaining unit employees who refuse to submit to testing will be subject to appropriate disciplinary or adverse action procedures.
- M. The Parties agree to participate in an on-going dialogue concerning the Employee Assistance Program (EAP). Management agrees to provide the Union the annual EAP report and other information as may be appropriate, including contractor reports.
- N. Appropriate Union representatives will be specifically invited as a Union representative to any training sessions or briefings at their location related to the drug-testing program for bargaining unit employees.

Section 16. Smoking at Work Areas

- A. Prohibited Smoking Areas. Areas not subject to negotiation and where there will be no smoking are:
 - (1) Auditorium;
 - (2) Conference rooms and classrooms;
 - (3) Elevators;
 - (4) Gift shops;
 - (5) Libraries;
 - (6) Medical facilities;
 - (7) Record/Storage Areas;
 - (8) Hazardous Areas - all areas containing flammable and/or highly combustible materials;
 - (9) Corridors, Lobbies, and Restrooms, except as permitted under 41 CFR 101-20.105-3I(2)(iv)
 - (10) Stairways; and
 - (11) Work areas, except as permitted under 41 CFR 101-21. 105-3 (c)(2)(iii).

- B. Local Negotiations. The designation of smoking areas, other than those where smoking is prohibited, is subject to local negotiations and such negotiations are to be accomplished in accordance with Article 34 of this Master Agreement.
- C. Passage of law, rule, regulation, Executive Order, or other lawfully constituted governing body or Secretarial (Assistant) Order, declaring GSA/BIA/Tribal owned or administered space a smoke free environment will invalidate this Section in its entirety, subject to impact and implementation bargaining.

Section 17. Food Service Safety

- A. The provisions of this Section apply only to food service employees working in the Agency's food service facilities.
- B. Medical Examinations. When Management requires medical examinations for current employees, the cost will be paid by Management. When the medical examination results show that an employee has a medical condition that is temporary and is such that he/she is to be precluded from handling food on a temporary basis, the employee may be placed in a position not requiring food handling or on appropriate leave.
- C. First Aid Training. As determined appropriate by Management, First Aid and safety training will be provided to employees.
- D. Inspections. Report(s) of inspections that are provided to Management will be made available to the Union representative upon request.
- E. Communicable Disease. An employee suspected of having a communicable disease may be placed on administrative leave until a medical examination has been conducted and Management receives the results.

Section 18. Safety Awareness

Management recognizes the need for training and orientation regarding occupational health and safety, including training on blood borne pathogens where appropriate for that specific occupation. When mutually agreed, Management will provide OSHA-type training to the individual designated by the Union when such training is available locally.

Section 19: Continuation of Operations Plan (COOP)

Bargaining unit employees who have COOP responsibilities will be notified by their respective supervisors of this status, and be informed of what is expected of them.

Article 11

Government Furnished Quarters

Section 1. Availability

Management agrees, in accordance with applicable laws and regulations, to make Government furnished quarters available where possible to employees.

Section 2. Assignment

Future assignments of Bureau quarters shall be accomplished in an equitable manner, and the following are examples for assignment criteria:

- A. Quarters should be assigned to an employee encumbering a “required occupancy position”. Such assignments shall be made without regard to race, color, or national origin.
- B. Where quarters have been assigned to all “required occupants,” the remaining will be assigned to “permitted occupants” in accordance with the following criteria:
 - (1) Employees at or below GS-11 or equivalent, beginning with those who have the greatest length of Government service at each level.
 - (2) All other employees on the basis of length of Bureau service.
 - (3) Where possible, larger quarters will be assigned to larger families, considering the age and sex of the children.
 - (4) Consistent with (A) above, larger or more expensive quarters should be assigned to higher salaried employees.
 - (5) Vacancies in quarters made available to “permitted occupants” on a priority basis should be filled in accordance with the above criteria. The installation/project head may use discretion, with the agreement of the installation Housing Committee, to fill on a temporary basis, quarters vacated by a “required” or “permitted” occupant.
 - (6) Bureau employees will be favored over other government employees and third parties who are not deemed “required” or “permitted”.
 - (7) Employees who live within a reasonable commuting distance of the duty station will be considered for housing after all employees meeting the above criteria have been placed in the Bureau’s housing.

Section 3. Surveys & Determination of Rates

The Union will receive appropriate survey data from Management annually and will have ten (10) work days to review the data and offer comments prior to any final determination of rates.

Section 4. General Conditions

- A. Management shall furnish twice a year a status of obligation report by location listing obligations to each Agency Quarters Committee. This report will include an accounting of all rental income and Quarters Operations and Maintenance Management Fund account expenditures at individual locations.
- B. Proper lighting and other security systems such as locks and dead bolts shall be installed and maintained when necessary as determined by Management. Employee security requirements and needs while in Government quarters will be properly considered in determining the maintenance, repair and installation schedule.
- C. Management will provide all tenants with two copies of any notices of rental rate adjustments at least twenty-one (21) work days in advance of implementation. Tenants may provide a copy of such notices to the Union.
- D. Quarters will be inspected for safety and habitability prior to assignment to an employee.
- E. As landlords, Management has the obligation to ensure that all occupied quarters are maintained in a safe and habitable condition.
- F. The landlord will use the GSA appliance replacement standard as a guide for appliance replacements.
- G. The landlord will ensure that all major appliances, heating systems, and water heaters will be given maintenance and required repair.
- H. The tenant may utilize the negotiated grievance procedure to seek relief in any case where Management is party to unsafe, unhealthy, or discriminatory conditions in housing.
- I. Each employee may file a request for review of increased rental or utility rates in accordance with the Department of the Interior Handbook and IPMR. The Union may represent on these appeals.
- J. The tenant handbook will be provided to each new tenant.
- K. The employee (tenant) has a right to contest any aspect of the rental rate establishment process. The employees, however, must exhaust the administrative appeal process outlined in the Departmental Quarters Handbook (400 DM addition to Interior Property Management Regulation, Appendix 6. A.) Section 114-52.602, prior to filing a grievance. If the employee

(tenant) receives no final decision through the administrative appeal process within sixty (60) calendar days, a grievance may be filed. On the other hand, if the decision is received and is unacceptable to the employee, the employee may pursue the complaint through the grievance procedures described in Article 25.

Section 5. Payroll Deduction

Payroll deduction of quarter's rental is mandatory. The total twelve (12) months rental charge shall be divided by the number of actual pay periods in pay status for the computation of the payroll deduction. Should the renter vacate Government furnished quarters prior to the 12-month period, a rebate of monies withheld will be paid to the employee minus any outstanding monies owed the Government.

Section 6. Quarters Committees

- A. Recommendations for quarters assignments at the agency headquarters shall be a function of the Agency Quarters Committee (AQC). Assignments shall be made in accordance with applicable regulations and this Master Agreement.
- B. Recommendations for quarter's assignments at the local school sites shall be a function of the School Quarters Committee. Assignments shall be made in accordance with applicable regulations and this Master Agreement.
- C. The quarters committee shall have the right to review the priority listings for required occupancy and recommend changes to the same.
- D. Any eviction which does not result from termination of employment will be previewed by the appropriate quarters committee. The quarters committee may make recommendations concerning such evictions to the appropriate line officer. Management will provide notice of intent to evict at least twenty-one (21) work days prior to implementation. The Chairperson of the quarters committee will call a meeting to review documentation pertinent to a notice of intent to evict within ten (10) work days. The quarters committee will provide its formal recommendations to the appropriate line officer at least seven days prior to implementation of the proposed action. The appropriate line officer will consider the recommendation of the quarters committee prior to implementing an eviction.
- E. Recommendations to request new quarters, additional quarters, or trailer pads may be made to the appropriate line officer by the recommending quarters committee.
- F. Quarters Committees, in consultation with a Bureau Housing Program Representative, will establish objective criteria that will determine the condition of quarters, i.e., excellent, good, fair, or poor. When reviews of housing conditions are made at a school site, there will be two representatives from the School Housing Committee (one Management and one Union) as members of the review team.

- G. Within twenty-one (21) work days of the effective date of this agreement, Management will provide the Union with the name, title, address, phone number and email address of the management official at each duty location who is responsible for the administration locally of any living quarters at that duty station in which bargaining unit employees reside.
- H. Within twenty-one (21) work days of the effective date of this agreement, the parties shall designate members of their local quarters committee. The local union steward shall notify his or her local management counterpart of who will serve on the quarters committee representing the union, and such representatives must be union members. Management shall notify the steward of its appointees. The local committee shall consist of not more than three appointees from management and not more than three appointees from the union, who shall be on official time when the committee meets or otherwise conducts its affairs. The first meeting of each local quarters committee shall be held within ten (10) work days, and the parties shall jointly notify the Union and Management at the national level that a local quarters committee has been constituted, who its members are, and that the parties have conducted their first meeting. The quarters committee will serve in an advisory capacity to the appropriate line officers.
- I. Any written complaints received by Management either locally or at the national level from unit employees concerning their housing will be sent to the Union at the national office as well as to all members of the appropriate local quarters committee, within five (5) work days of receipt. Any oral complaints will be reduced to writing when received and will similarly be provided. The local quarters committee shall ensure that repairs or corrections made, if warranted, and shall report all action taken on such complaints to the Union's national office.

Article 12

Travel and Travel Related Expenses

Section 1. Travel Time

- A. Unless organizational needs require otherwise, Management shall schedule travel during official work hours. If a meeting or event is within the control of Management, and it is administratively feasible, Management will reschedule the meeting to avoid required travel on non-work days. When a supervisor knows in advance that an employee's administrative workweek will differ from the employee's normally scheduled workweek due to travel the supervisor will reschedule the employee's administrative workweek to correspond with the specific days and hours the employee is expected to work.
- B. If circumstances require an employee's attendance at a temporary duty station at a time too early to permit travel on that day during the employee's regularly scheduled working hours, the employee may request to travel during regularly scheduled hours on the preceding work day and, if approved, shall be entitled to lodging and per diem. Employees who are unable to return from temporary duty stations during normal duty hours may request to return the following day during regularly scheduled duty hours, and, if approved, shall be entitled to lodging and per diem.
- C. Employees who are FLSA exempt or who are otherwise ineligible to be compensated for travel time outside of scheduled work hours shall be entitled to compensatory time off for travel in accordance with OPM regulations. Employees are required to use such compensatory time within twenty-six (26) pay periods unless he or she is precluded from doing so due to an exigency of the service beyond the employee's control, in which case the time limit to use such compensatory time shall be extended for an additional twenty-six (26) pay periods.
- D. Travel status for which employees are eligible for compensation or compensatory time includes the usual waiting time that precedes or interrupts travel. This includes the time that an employee is required to arrive at an airport in advance of a scheduled flight to check in and clear security.

Section 2. Travel Vouchers

- A. Employees will submit a Final Travel Voucher (SF 1012) claim for travel expenses within five (5) work days after the end of travel. If the employee is on continuous travel, he or she should submit a Partial Voucher (SF 1012) claim on a monthly basis. Travel vouchers will normally be paid within two (2) weeks of receipt by the servicing finance office. A traveler is entitled to receive a late payment fee if the Travel Voucher claim is not reimbursed within thirty (30) calendar days of submission.
- B. If the review of a Travel Voucher claim discloses irregularities, Management will notify the traveler as soon as practical and attempt to resolve the irregularity with the traveler. If the servicing finance office determines that the voucher is improper, it will be returned to the

employee within seven (7) work days and includes a written explanation of the reasons for the return and a contact in the servicing finance office for assistance.

- C. If an audited Travel Voucher contains some items not properly supported or allowable, the traveler will be promptly reimbursed initially for those items supportable or allowable. The employee will be notified in writing regarding the disallowed items and will be provided an opportunity to provide additional information and/or documentation to support the claim. If still unable to support all or part of a claim, the employee will be notified in writing why the claim remains disallowed and the proper process for filing a reclaim voucher or appeal.

Section 3. Gainsharing

At the time of the signing of this agreement, Management and the Union agreed that a gainsharing program was not feasible based on the current technology being used for travel related activities, as well as based on the additional manpower required to operate this type of program. In anticipation of the implementation of new travel-related technology, Management and the Union agree to revisit this specific topic in October 2012.

Article 13

Workweek and Hours of Work

Section 1. Hours

- A. For purposes of determining eligibility for overtime pay, the basic workweek shall normally consist of forty (40) hours over five (5) consecutive eight-hour days. The workweek will be the period for which an employee is paid a straight-time pay rate. Management recognizes the right of the Union to bargain over the impact and implementation of changes in the hours of work, shifts, flextime or tours of duty.

- B. In conformance with the Federal Employee Part-time Career Employment Act (FEPCEA), Management shall not abolish any position occupied by an employee in order to make the duties of such position available to be performed on a part-time career employment basis. Nor shall any unit employee who is employed on a full-time basis be required to accept part-time employment as a condition of continued employment. However, this paragraph does not impact part-time career positions which exist at the time this Agreement is memorialized or preclude Management from the creation of part-time career positions which are established in accordance with FEPCEA.

Section 2. Alternative Work Schedules (AWS)

A. General

- (1) Management and the Union agree to support the application of alternative work schedules within various organization segments of the Department. Both parties further agree that it is the mutual responsibility of Management and employees to effectively and efficiently accomplish the mission of the Department. The alternative work schedules defined in this section are recognized by the parties as exceptions to the basic work week definition identified in Section 1 above.

- (2) Alternative work schedules will fall into two categories: flexible work schedules (FWS) and compressed work schedules (CWS).

B. Definitions and Administration

- (1) If approved by Management, employees may elect to work one of the following alternate work schedules:
 - a. **Flexible Work Schedules:** An FWS allows variable hours (within designated flexible time bands) and variable days, with set core hours. Employees, with the exception of members of the Senior Executive Service, may earn credit hours under an FWS.

- i. **Flexitime** – commonly referred to as the “gliding schedule,” this type of AWS provides for flexible arrival, departure and lunch periods and has specified core hours in each of ten work days in the pay period. Full-time employees are required to work during their scheduled work hours, or use leave, credit time, and/or compensatory time off during specified core hours and eight regular hours on each of ten work days in the bi-weekly pay period. Employees may be allowed to earn credit hours under the guidelines in this policy after the bi-weekly work requirement is met.

- ii. **Maxiflex** – this type of AWS allows for the establishment of flexible arrival and departure times, and flexible lunch periods and requires that specific core hours be established on at least three days of the work week. There is no daily or weekly requirement. Employees must work or account for their whereabouts, by leave, credit time, or compensatory time off, to meet their bi-weekly work requirement (80 hours for full-time employees). Employees may vary the number of hours they work each day and each week for a maximum of two days off per pay period. Employees working under this type of AWS should gain approval from their immediate supervisor for their “planned” schedule by the beginning of each pay period. Credit hours may be earned with supervisory approval, but will not accrue until after the biweekly work requirement is met. In addition to full Maxiflex, employees have the option of working schedules similar to those under a compressed schedule as follows:
 - (a) **Maxiflex 5/4-9** – requires the employee to establish a daily schedule of nine hours on each of eight work days, eight hours on one work day and one AWS day off per pay period. The AWS day off is established but may be “swapped” for another day within a pay period, with prior supervisory approval. Arrival and departure time bands and core hours are established for days on which work is scheduled. Flexible lunch periods are allowed, with prior supervisory approval. Credit hours may be earned, but will not accrue until after the bi-weekly work requirement has been met.

 - (b) **Maxiflex 4/10** – requires the employee to establish a daily schedule of ten hours on each of four work days each week with one AWS day off per week. The AWS day off is scheduled on a recurring basis, but may be “swapped” for another day within a pay period, with prior supervisory approval. Arrival and departure time bands and core hours are established for days on which work is scheduled. Flexible lunch periods are allowed with prior supervisory approval. Credit hours may be earned, but will not accrue until the bi-weekly work requirement has been met.

- b. **Compressed Work Schedules:** A CWS has fixed hours with a fixed starting and ending time, and allows employees to work their scheduled hours in fewer than ten (10) work days. Credit hours cannot be earned under a CWS. There are no core hours, flexible time bands, or flexible lunch periods.
 - i. **Compressed 5/4-9** -- under this schedule, employees work nine hours on eight work days in the pay period, eight hours on one day in the pay period and have one AWS day off. The AWS day off is fixed at the time the schedule is established and may not be “swapped” for another day.
 - ii. **Compressed 4/10** – under this schedule, employees work four ten-hour days each week of the biweekly pay period and have one AWS day off each week. The AWS day off is fixed at the time the schedule is established and may not be “swapped” for another day.

C. Core Hours

- (1) Core hours are that part of the schedule of hours during the work day, workweek, or pay period that is within the tour of duty and during which employees must be present at work or on leave, or other excused absence. The core hours are 9:30 a.m. to 3:30 p.m., with a break of either ½ or one hour mid-day for lunch.
- (2) Employees must be present at work during core hours, except for their scheduled ½ to one hour lunch break, or must account for absent time with credit hours, compensatory time off, or appropriate charge to leave, or other excused absence.
- (3) Supervisors may require employees to be present at work at times other than those covered by core hours to attend meetings, training, or perform other assignments as may be necessary. If so required, employees must report. If the requirement results in additional entitlement to pay such as night differential or overtime, the supervisor must compensate the employee in accordance with appropriate regulations.

D. Length of Work day

- (1) The maximum length of the work day is generally 12 hours; however, exceptions may be made as needed. The length of the work day will be between the hours of 6:00 a.m. and 7:30 p.m.
- (2) Supervisors should work with employees to establish the earliest arrival time and the latest departure time for taking into consideration the operational hours of the facility in which they work. Supervisors should consider the safety and security of employees when establishing these times. In locations protected by a guard force, supervisors must

coordinate arrival and departure times that do not result in additional expenses for extended guard hours.

E. Meal Time

- (1) Meal time or an unpaid break of no less than 30 minutes and no more than one hour is required for each 6 hours or longer of work, and for employees scheduled to work core hours, must be scheduled to be taken between 11:00 am and 2:00 pm. **The meal time or unpaid break may not be taken at the beginning or end of the normal scheduled work day.** Employees must work the number of hours appropriate to their work schedule.
 - a. For example, an employee on an 8-hour schedule who arrives for work at 7:00 a.m. and who has a 30-minute meal or unpaid break between the hours of 11:00 a.m. and 2:00 p.m., is due to leave for the day at 3:30 p.m. If that same employee has a one-hour meal break, his/her work day will end at 4:00 p.m.

F. Credit Hours Earned and Used

- (1) Credit hours are hours an employee works voluntarily, with prior supervisory approval, in excess of the normal hours worked in a pay period. Credit hours can be carried over for use in another pay period.
- (2) Supervisory approval is required to earn and use credit hours. “Blanket” approval for an employee to earn credit hours may be given at the supervisor’s discretion; however, such deviations should be an exception. Credit hours may not be earned on Saturdays, Sundays, or holidays.
- (3) Credit hours may be earned on regular work days or on the employee’s AWS day off as long as no more than 12 total hours are worked on any day. Therefore, employees working an 8-hour schedule may work up to four extra hours per day; those on a 9-hour schedule may work up to three extra hours per day, and those on a 10-hour schedule may work up to two extra hours per day. Once the employee has completed 80 hours in a pay period (or less for a part-time employee), additional hours worked will be considered and input into the automated timekeeping system as credit hours. Extra hours worked in the pay period will not be recorded as credit hours until such time as the employee has met the 80-hour bi-weekly requirement.
- (4) Part time employees on Maxiflex must work the number of hours specified in their tour of duty for the pay period before they may accrue credit hours. Part time employees in Flexitime must work 80 regular hours prior to being able to earn credit hours. Hours an employee works in addition to their normal tour of duty for the pay period up to 80 hours will be paid at the regular hourly rate.

- (5) Credit hours must be earned within the time period established for the length of the work day, e.g., between the hours of 6:00 a.m. and 7:30 p.m. for Main Interior employees. Credit hours may be earned in 15-minute increments. Full time employees may only carry over a maximum of 24 credit hours from one pay period to the next. Part time employees may only carry over a maximum number of credit hours equal to $\frac{1}{4}$ of their regular bi-weekly work requirement. Employees are responsible for monitoring their credit hour balance and ensuring that the maximum carry over is not exceeded. Credit hours in excess of 24 hours are forfeited and do not entitle the employee to overtime compensation. "Off the record" balances are not allowed.
- (6) Credit hours may not be earned or used by employees working under a compressed schedule. Employees who wish to establish a compressed work schedule must use all of their existing credit hours prior to doing so.

G. Holidays on AWS

- (1) Employees working under a compressed work schedule will be paid the number of hours for which they were scheduled to work on the holiday. For example, an employee who works a compressed 4/10 schedule will receive 10 hours of holiday pay. If the holiday falls on the AWS day off and that day is a Monday, the employee will be scheduled to take Tuesday off in lieu of the holiday and will be paid the number of hours they are scheduled to work on that day. If the holiday falls on an AWS day off and that day is a Friday, the employee will be scheduled to take Thursday off in lieu of the holiday and will be paid the number of hours they are scheduled to work on that day.
- (2) Full-time employees working under a flexible work schedule shall receive only 8 hours holiday pay for holidays. Under a flexible work schedule, if the AWS day off is the same day as the holiday, the employee and supervisor will determine which day within the same pay period will be taken as the AWS day off, but generally the employee will be scheduled to take Tuesday as their AWS day off if the holiday falls on a Monday, and Thursday as their AWS day off if the holiday falls on a Friday.

H. Abuse

- (1) If an employee abuses his/her flexible schedule, Management may remove the employee from participation in a flexible schedule.
- (2) Removal from a flexible schedule for abuse is not a disciplinary action, and does not preclude other action by Management within its authorities to effect disciplinary action including removal from employment.
- (3) Normally employees will be given notice before being removed from a flexible schedule.

Section 3. Shift Assignments

Shift assignments will be made in the interest of efficiently carrying out program objectives. To the maximum extent possible, personal hardships or preferences expressed by employees will be considered in assigning tours of duty. To the extent that employees have substantially equal qualifications, as determined by Management, the most senior employee may have first choice of shift assignment, or in the case of instructional personnel, first selection of courses to be taught and teaching schedules.

Section 4. Rest Breaks

All covered employees will receive a 15 minute rest break mid-morning and mid-afternoon. In addition, employees will be authorized a 15 minute rest break for each four hour period of overtime worked. The two fifteen minute rest breaks cannot be used to shorten the work day. If the rest break is not utilized, it is lost. It is Management's responsibility to schedule rest breaks and find coverage. Employees may not leave the duty station during rest breaks.

Section 5. Meal Time

Employees not on AWS shall receive a minimum of 30 minutes and up to one hour for a meal time or unpaid break, except in emergency situations. The employee shall be free to leave the worksite during this period since the meal time/unpaid break is not paid time. For employees scheduled to work during core hours, the meal time/unpaid break must be taken between 11:00 am and 2:00 pm. **The meal time or unpaid break may not be taken at the beginning or at the end of the normal scheduled work day.** Normally, duties will not be assigned during the meal time/unpaid break. If duties must be assigned, the employee will be compensated with overtime or compensatory time as appropriate. For contract Education employees, see Article 31, Section 5.

Section 6. Holidays

Employees are entitled to all federally recognized holidays if otherwise in a duty status. Employees properly classified as "essential" may not always be entitled to be off on all federally recognized holidays, but will be compensated in accordance with appropriate pay regulations.

Section 7. Altering Schedules

Except where the needs of the service dictate otherwise, assignments to tours of duty will be scheduled at least one week in advance of the administrative workweek and such schedules will remain in effect for at least one week.

Article 14

Telework

Section 1. Purpose

- A. Management and the Union jointly recognize the mutual benefits of a flexible workplace program to the Department and its employees. Balancing work and family responsibilities, assistance to the elderly or disabled employees, and meeting environmental, financial, and commuting concerns are among its advantages. In recognizing this benefit, both parties also acknowledge the needs of the Department to accomplish its mission.
- B. Any telework/telecommute program established under this Article will be a voluntary program which permits employees to work at home or at other approved sites away from the office for all or part of the workweek.

Section 2. Telework Agreement

Before beginning work at an alternative worksite, the employee and immediate supervisor must sign a telework agreement. It is the supervisor's responsibility to adequately document the telework arrangement in advance to explain/define the employee's duty status, credit hours, overtime, leave, alternative work schedules, etc. The agreement should specify the terms and conditions of program participation, the performance expectations, and the work schedule information for the individual employee. The telework agreement documents a commitment by the employee and the supervisor to abide by the applicable guidelines and program policies and must be in place before the employee begins working at an alternative worksite. Telework agreement can be found at www.doi.gov.

Section 3 – Participation Criteria for the Telework Program

- A. Consistent with the parties' goals of fostering a family-friendly workplace, all employees may participate in the telework program if the following criteria are met:
 - (1) Whether a sufficient amount of the employee's work, in fact, can be performed at an alternate worksite. It is understood that the accomplishment of the Agency's mission is paramount. While supervisors and managers are encouraged to be progressive in regard to reengineering or restructuring how their offices operate or the manner in which they assign work, there is no contractual obligation or requirement on management to do so to accommodate an employee's request to participate in telework/telecommute.
 - (2) The employee will be available and accessible to supervisors, co-workers, and customers at all times while performing work at an alternate worksite.
 - (3) The employee's most recent performance evaluation is at least Fully Successful and the employee has demonstrated an ability to work alone and without face-to-face supervision.

- (4) There are not conduct problems that would cause management to be concerned about the employee's trustworthiness or dependability.
- (5) Costs of such an arrangement: The parties recognize that costs or cost savings in technology, equipment, and telecommunications are considerations in decisions regarding participation in telework/telecommute arrangements. While it is expected that telework/telecommute will require some costs, the costs involved may be too much to finance an employee on telework/telecommute.
- (6) Technology/equipment needs: The parties recognize that existing and evolving technology(ies) may allow or prevent an employee from participating in the telework/telecommute program. The employee may need access to specific equipment and/or will use the telephone extensively on telework/telecommute days. Such technology/equipment may include:
 - a. Long distance telephone usage
 - b. Telephone usage (other than long distance)
 - c. Computer/Laptop assigned to the employee's home
 - d. Computer software
 - e. Modem
 - f. Equipment maintenance and repair
 - g. Remote technical assistance
 - h. Replacement of damaged or lost equipment
 - i. Fax capability
 - j. Internet service provider

Section 4. Coverage of Office Functions

- A. Management will continue to have responsibility for seeing that the mission of the Department is carried out. Each office will determine adequate coverage during official hours for the purpose of assuring that the functions of the office are fulfilled. Some examples of the principal forms of coverage are:
- (1) Having phones answered;
 - (2) Providing clerical, technical, and professional support;
 - (3) Providing office representation at essential meetings;
 - (4) Handling inquiries from the public; and
 - (5) Providing program needs based on business necessity.
- B. When coverage requirements are established, all employees are obliged to meet coverage requirements. The determination of who will work which particular hours to ensure such coverage is within the authority of the supervisor. Determining office coverage involves both the office work site and the telework/telecommute site. Where practicable, personal preference will be honored in scheduling coverage. Where personal preference conflicts with the equitable sharing of the burden of coverage, personal preference shall give way. The opportunity of each employee to maximize his/her telework/telecommute participation shall be consistent with the coverage of legitimate work unit functions as determined by the supervisor.

Section 5. Time Frames

- A. Upon receipt of a request for telework/telecommute, the supervisor and the employee will meet to discuss and review the request. The supervisor's decision is to be provided to the employee within ten (10) work days of the request. The time frame may be extended by mutual agreement of the employee and supervisor.
- B. If disapproved, the employee will be advised in writing with the reason(s). If the disapproval subsequently becomes the subject of arbitration, the parties will clarify all the issues in accordance with this Master Agreement.
- C. If approved, the specifications of the arrangement will be worked out, reduced to writing, and signed by both the supervisor and the employee. The employee will begin working at the alternate work site within twenty-one (21) work days after completion of the individual telework/telecommute agreement unless circumstances dictate otherwise.

Section 6 . Operating Principles

- A. For employees who are approved to telework/telecommute, the employee will have the option to work the designated telework/telecommute plan/schedule of his/her organization or to opt out of Alternative Work Schedule.
- B. The governing rules, regulations, and policies concerning time and attendance, overtime, and leave are unchanged by participation in telework/telecommute. Employees will not perform overtime or night work without express approval in advance.
- C. Injuries that arise in the performance of duty at the alternate worksite are subject to the Federal Employees' Compensation Act.
- D. The government is not responsible for operating costs, home maintenance, or any other incidental costs to the employee (e.g., utilities). Employees on telework/telecommute are entitled to reimbursement for authorized expenses while conducting government business.
- E. For employees who are approved to telework/telecommute, the following applies with respect to equipment:
 - (1) If the employee uses government equipment, the employee will use and protect the equipment.
 - (2) Government-owned equipment will be serviced and maintained by the Government. This equipment will be required to be brought/returned to the duty station to have any maintenance performed.
 - (3) The employee must comply with Department security and information technology policies and procedures. They must ensure the adequate measures are in place to protect the equipment from being damaged, stolen, or accessed by unauthorized individuals.
 - (4) If the employee uses his/her own equipment, the employee is responsible for its service and maintenance.
 - (5) Employees will ordinarily be given a minimum of 24 hours advance notice regarding management service or maintenance of government-owned property. Such service or maintenance will occur during the employee's normal work hours unless circumstances dictate otherwise.
- F. Employees on telework/telecommute are obligated to ensure a safe and healthy work environment and to apply necessary safeguards to protect government records from damage or unauthorized disclosure.

Section 7. Recall

Employees participating in telework/telecommute programs must be accessible and available for recall to their regular offices for work needs that cannot be performed at the alternate worksite. Examples are training, special meetings, new work requirements, and emergencies. These examples are for illustrative purposes and are not meant to be all-encompassing. Management will take full advantage of existing technology (teleconference, fax, etc.) where possible in order to minimize recall. Management will provide reasonable advance notice of all recalls if possible. Where practicable, not less than 24 hours advance notice will be given but there may be times when advance notice cannot be given.

Section 8. Travel

- A. Travel provisions that apply to employees working at a traditional worksite also apply to employees who telework. A teleworker who is directed to travel to another worksite (including the traditional worksite) during his or her regularly scheduled basic tour of duty would have the travel hours credited as hours of work. If the employee is directed to report to the official duty station, the travel will be at no cost to the Government.

- B. Where an employee teleworks full-time from a location outside of the local commuting area of the traditional worksite, and his or her alternative worksite has been determined as his or her official duty station, the employee's organization would be responsible for all work-related travel outside the employee's normal commuting area, including travel to the traditional worksite.

Section 9. Termination

- A. Supervisors may terminate an agreement whenever:
 - (1) There is a change in work requirements or the arrangement no longer supports the mission.
 - (2) An employee's performance is less than Fully Successful at the progress review or at the end of the annual appraisal period, or if, within at least sixty (60) work days, the employee has demonstrated an inability to work alone and without face-to-face supervision.
 - (3) The employee has demonstrated conduct problems regarding trustworthiness or dependability to the extent that he/she should be removed from the program.
 - (4) Costs of the agreement are no longer affordable.
 - (5) Technology changes require return to the regular office.
 - (6) Employees do not conform with the terms of their agreement.

- B. When terminating a telework/telecommute arrangement, the following must occur:

(1) Management will attempt to provide appropriate advance notice of the termination of any agreement to the extent practicable. If possible, the notice will be at least five (5) work days in advance.

(2) The Notice of Termination must be in writing and indicate the reason(s) for termination.

Section 10 . Grievability

Management's decisions on participation, recall, or termination of formal telework/telecommute arrangements are grievable. Decisions on informal telework/telecommute arrangements are not grievable. However, if the employee alleges that a decision on informal telework/telecommute arrangements is a prohibited personnel practice, such a matter is grievable.

Section 11. Issue Resolution

Agency managers and union officials are encouraged to establish creative approaches to provide information and resolve problems regarding telework/telecommute. Where there are disputes over participation, recall or termination of a formal telework/telecommute arrangement, agency and union officials agree to use alternate dispute resolution methods to resolve such issues.

Article 15

Overtime/Compensatory Time

Section 1. Employee Assignments

Employees who are required by Management to work overtime will be compensated in accordance with applicable laws and regulations.

Section 2. Distribution

Records showing the overtime distribution for bargaining unit employees will be maintained and made available to the Union upon request. Normally, the opportunity to perform overtime work will be made available to all qualified employees as overtime work becomes necessary. Consistent with mission requirements, first consideration in assignment of overtime will be given to employees currently performing the work. Second consideration will be given to other qualified employees in the assignment of overtime/holiday work. Supervisors are responsible for making overtime assignments.

Section 3. Excusal

An employee, upon request, should be released from an overtime assignment if it is determined by management that a qualified replacement is available and willing to work.

Section 4. Callback Pay

Callback pay occurs when an employee is called back after having been dismissed for the day after completion of the normal tour of duty. The employee will receive pay for at least two (2) hours in duration for the purpose of premium pay, either in money or compensatory time off at the employee's choice. Overtime will be paid in fifteen (15) minute increments after the first two (2) hours.

Section 5. Compensatory Time

- A. Compensatory time off is time off with pay in lieu of overtime pay for irregular or occasional overtime work, or under flexible work schedules, time off with pay in lieu of overtime pay for regularly scheduled, or irregular or occasional overtime work. At the request of the following types of employees, the agency may grant compensatory time off from the employee's tour of duty instead of overtime payment for an equal amount of overtime work:
- (1) Employees who are covered by the Fair Labor Standards Act (FLSA), i.e., employees considered "Nonexempt" from the FLSA;
 - (2) General Schedule (GS) employees who are "Exempt" (not covered) by the FLSA and earn less than the maximum pay of a GS-10; and
 - (3) Federal wage system employees.

- B. Management may not require the above listed employees to take compensatory time in lieu of overtime pay. However, Management can direct GS employees earning rates of basic pay greater than a GS-10 Step 10 who are Exempt from FLSA to take compensatory time off in lieu of overtime.
- C. Compensatory time off that is not used within twenty-six (26) pay periods after the pay period during which it was earned will be handled depending upon the status of the employee at the time the compensatory time was earned:
- (1) FLSA Nonexempt Employees: If the employee is unable to take earned compensatory time off within twenty-six (26) pay periods after the pay period during which it was earned or who separates or transfers from the Bureau or Office before the earned compensatory time off is used, the employee must be paid for the unused compensatory time off at the overtime rate in effect when the time was earned. Also, if an employee is placed on leave without pay to perform service in the uniformed services or because of an on-the-job injury with entitlement to injury compensation under 5 USC Chapter 81, and is therefore unable to take earned compensatory time off within twenty-six (26) pay periods after which it was earned, then the employee must be paid at the overtime rate in effect at the time it was earned.
 - (2) FLSA Exempt Employees: If the employee is unable to take earned compensatory time off within twenty-six (26) pay periods after the pay period during which it was earned **due to an exigency of the service beyond the employee's control**, Management must pay the employee for the unused compensatory time off at the overtime rate in effect when the time was earned. Also, if the employee transfers, separates, goes on extended leave without pay to perform service in the uniformed services or because of an on-the-job injury with entitlement to injury compensation under 5 USC Chapter 81, and is therefore unable to take earned compensatory time off within twenty-six (26) pay periods after which it was earned, then the employee must be paid at the overtime rate in effect at the time it was earned. However, if the employee fails to take the compensatory time off before the expiration date and it is **NOT** due to an exigency of the service beyond the employee's control, then the employee will **lose all rights** to both compensatory time off and to overtime pay.

Section 6. Altering Schedules

Except when Management would be seriously handicapped in carrying out its function or the costs will be substantially increased, assignments to tours of duty will be scheduled in advance of the administrative workweek over periods of not less than one week and that such schedules will remain in effect for a least one week.

Article 16

Career Seasonal Positions

Non-Pay/Non-Duty Status - Applies to Title 5 BIE Employees Only
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Section 1. General

It is recognized that Career Seasonal positions have been created by law. Management will attempt to keep Career Seasonal non-pay/non-duty status to the minimum necessary in conformance with law, budget constraints, and the needs of the service.

Section 2. Vacancies

Management will advertise seasonal employment opportunities appropriately during any period of non-pay/non-duty status.

Section 3. Employment

Management shall consider, to the extent allowed by law and in accordance with Indian Preference, employees who are in non-pay/non-duty status for seasonal work.

Section 4. Benefits

For employees electing to pro-rate, medical insurance shall be collected by means of pro-rated deductions prior to the seasonal layoff.

Section 5. Policy Changes During Seasonal Layoff

Management recognizes its obligation to inform the Union of policy changes made during the seasonal layoff period.

Section 6. Notification of Seasonal Layoff

Except for positions where the duties entail unpredictable starting and ending dates (e.g. firefighters), Management will provide notice of placement in nonduty/nonpay status as soon as possible, generally at least sixty (60) calendar days in advance.

Section 7. Leave for Employees During Seasonal Layoff

Employees with use or lose leave shall be notified in writing early in the calendar year of the need to schedule their annual and compensatory leave.

Article 17

Leave

Section 1. Coverage

Leave provisions of this article apply to all unit employees unless otherwise noted. Contract Education employees will be covered by the provisions of this article and Article 30.

Section 2. Annual Leave

NOTE: This section does not apply to contract education employees in the Bureau of Indian Education, whose annual leave (vacation) is governed by Article 30

- A. Purpose: Annual leave is provided and used for two general purposes: 1) to allow every employee an annual vacation period of extended leave for rest and recreation; and, 2) to provide periods of time off for personal or emergency purposes. An employee has a right to take annual leave, subject to the right of the supervisor to schedule the time at which annual leave may be taken.
- B. Approval Process: Employees will state, as far in advance as practical, the desired time for their annual leave. Once the annual leave is scheduled and approved, Management should not rescind approval of the leave unless warranted by workload requirements and/or there is an urgent need for the employee's services. A request for emergency leave (annual leave not approved in advance) may require documentation to substantiate the emergency. If leave is denied the employee can submit a written request to receive the reason for the denial in writing.
- C. Eligibility: Permanent and temporary employees, who are serving under appointments that exceed ninety (90) calendar days, begin to accrue leave immediately. This leave may be used as it is earned. Intermittent employees [employees with no scheduled tour-of-duty] do not earn annual leave.
- D. Restoration of Leave: If extension of a furlough period or other reason will cause an employee to lose annual leave that had been previously scheduled and approved, Management will take action to allow the employee to take leave after the furlough period(s) or restore the leave under PL 93-181, if appropriate.

Section 3. Sick Leave

It is agreed that the use and approval of accrued sick leave will be in accordance with 5 USC Chapter 63 (Sections 6307-6312) and 5 CFR Part 630.

- A. Purpose: Sick Leave may be used to:
 - (1) Receive medical, dental, or optical examination or treatments;

- (2) Address the employees incapacitation due to physical or mental illness, injury, pregnancy, or childbirth;
 - (3) Make necessary funeral arrangements for a family member or to attend the funeral of a family member;
 - (4) Provide care to a family member as a result of physical or mental illness, injury, pregnancy, childbirth, or medical, dental or optical examination or treatment;
 - (5) Address the exposure to a communicable disease;
 - (6) Address the adoption of a child, including any necessary requirements to complete the adoption.
- B. Approval Process: Normally anticipated sick leave should be requested as far in advance as possible. In the event that the employee is compelled to request unanticipated sick leave, he/she should make every effort to notify his/her supervisor as soon as possible, and in no event, later than one (1) hour after the start of the work day and every day thereafter. If circumstances prohibit immediate communications as stated above, the employee will report his/her absence as soon as possible and may be required to provide an explanation for the delay. Unless the employee is on sick leave restriction, an immediate family member can report the absence. An appropriate call-in procedure will be jointly established at the local sites to ensure that employees have a clear understanding as to their point of contact.
- C. Medical Restriction: Employees normally shall not be required to furnish a medical certificate to substantiate a request for approval of sick leave unless such sick leave exceeds three (3) consecutive work days. However, should the supervisor have reason to believe that the employee may be abusing sick leave, the employee may be placed on Leave Restrictions and will be advised in writing that a medical certificate will be required for each absence chargeable to sick leave. After six (6) months the sick leave restriction will expire. Management may reinstate the requirement for cause.
- D. Eligibility: Permanent and temporary employees earn sick leave. The earning rate will differ based on the type of work schedule. Intermittent employees do not earn sick leave. Full time employees earn four (4) hours per pay period, while part-time employees earn one (1) hour for every twenty (20) hours in pay status.
- E. Restoration: Sick Leave is restored to an employee's account following a break in service without regard to the length of separation, if the employee returns to Federal employment. If sick leave was previously forfeited, it may not now be restored.
- F. Advancing Sick Leave: In cases of serious disability or illness, sick leave may be advanced (except for those employees serving under a limited appointment or with a specific termination date) for up to thirty (30) days, or equivalent for uncommon tours-of-duty, subject to the

following conditions: 1) all available sick leave is used; 2) the employee will return to duty long enough to repay the sick leave; and 3) does not involve Family Friendly Leave authority. The granting of advance sick leave is subject to supervisory approval.

- (1) Repayment. Employees must repay any advanced sick leave unless: 1) the separation is caused by death; 2) disability retirement occurs; or 3) a disability prevents the employee from returning to duty or continuing in the service based on medical evidence that the employing office has determined acceptable.
- (2) Unused Sick Leave: Employees are not paid for unused sick leave upon separation.
- (3) Illness while on Annual Leave: An employee who becomes ill while on Annual Leave may have the time of illness charged to sick leave provided the employee notifies the supervisor on the first day of the illness.

Section 4. Family Friendly Leave Policies

This applies to any employee who is covered by the Federal leave system [see 5 USC 6301(2)], and who otherwise meets the eligibility requirements described in 5 CFR 630.1201.

A. Family and Medical Leave Act of 1993: Federal employees are entitled to a total of 12 administrative workweeks of unpaid leave during any 12-month period for the:

- (1) birth of a child and care of a newborn;
- (2) adoption or foster care of a child;
- (3) care of a spouse, son, daughter, or parent with a serious health condition;
- (4) Serious health condition of the employee that makes the employee unable to perform his/her position. Upon return from such leave an employee must be returned to the same position or to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment.
 - a. Definition of Family Members:
 - i. Spouse (includes common law marriage in States where it is recognized);
 - ii. Son or Daughter is defined in terms of the child's age and relationship to the employee. Age: son or daughter who is either under eighteen (18) years of age, or 18 years of age or older and incapable of self-care due to mental/physical disabilities; Relationship: a biological, adopted, or foster child, stepchild, a legal ward, or a child of a person standing *in loco parentis*.

iii. Parent is defined as the employee's biological parent or an individual who stands or stood *in loco parentis* to the employee when the employee was a son or daughter.

(5) An employee may elect to substitute annual leave and/or sick leave, consistent with current laws and regulations, for any unpaid leave under the FMLA .

B. Sick Leave for Family Care, Bereavement Purposes, or Serious Health Condition

(1) **Sick Leave for Family Care or Bereavement Purposes:** Most Federal employees may use a total of up to 104 hours (13 work days) of sick leave each leave year to:

- a. provide care for a family member who is incapacitated as a result of physical or mental illness, injury, pregnancy, or childbirth;
- b. provide care for a family member as a result of medical, dental, or optical examination or treatment; or
- c. make arrangements necessitated by the death of a family member or attend the funeral of a family member.

NOTE: A covered full-time employee may use up to 104 hours (13 work days) of sick leave each leave year for these purposes. Part-time employees and employees with uncommon tours of duty are also covered, and the amount of sick leave permitted for family care and bereavement purposes is pro-rated in proportion to the average number of hours of work in the employee's scheduled tour of duty each week.

(2) **Sick Leave to Care For a Family Member With a Serious Health Condition:** Most Federal employees may use a total of up to 12 administrative workweeks of sick leave each leave year to care for a family member with a serious health condition. If an employee previously has used any portion of the 13 days of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted from the 12-week entitlement. If an employee has already used 12 weeks of sick leave to care for a family member with a serious health condition, he or she cannot use an additional 13 days in the same leave year for general family care purposes. An employee is entitled to a total of 12 weeks of sick leave each year for all family care purposes.

(3) "Family Member" is defined as:

- a. Spouse, and parents thereof;
- b. Children, including adopted children, and spouses thereof;
- c. Parents;

- d. Brothers and sisters, and spouses thereof; and
 - e. Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
- C. Sick Leave for Adoption: An employee may use sick leave for purposes related to the adoption of a child. Management may advance up to 30 days of sick leave for adoption-related purposes.

(1) Examples may include but are not limited to:

- a. Appointments with adoption agencies, social workers, and attorneys;
- b. Court proceedings;
- c. Required travel;
- d. Any periods of time the adoptive parents are ordered or required by the adoption agency or by the court to take time off from work to care for the adopted child; and
- e. Any other activities necessary to allow the adoption to proceed.

(2) Adoptive parents who **voluntarily** choose to be absent from work to bond with or care for an adopted child may not use sick leave for this purpose. Parents may use annual leave or leave without pay for these purposes. Management may request administratively acceptable evidence for absences related to adoption.

D. Leave for Bone Marrow or Organ Donation: An employee may use up to seven (7) days of paid leave each calendar year to serve as a bone-marrow donor. An employee also may use up to thirty (30) days of paid leave each calendar year to serve as an organ donor. Leave for bone marrow and organ donation is a separate category of leave that is in addition to annual and sick leave.

E. Federal Leave Sharing: Voluntary Leave Transfer Programs allow Federal employees to donate annual leave to other Federal employees, who have exhausted all their earned leave and have medical emergencies, and as a consequence, will suffer a loss of income due to the medical emergency.

Section 5. Military Leave

An employee is entitled to Military Leave for certain types of inactive duty in the National Guard or as a Reserve of the Armed Forces. Military Leave will be granted in accordance with the provisions of 5 U.S.C. 5519 and 5 U.S.C. 6323. Detailed information about Military Leave may be found at the following URL: <http://www.opm.gov>.

Section 6. Administrative Leave/Excused Absence

- A. Administrative leave may be granted to employees for participation in such civic activities as blood donations, Military/Veteran Honor Guards, conferences and conventions, civil defense drills, voting, when it is determined that attendance will serve in the best interest of the Federal service. Administrative Leave may also be granted when an activity shuts down due to circumstances beyond the Agency's control.
- B. Voting. When voting polls are not open for local, state, Federal, or tribal elections at least three (3) hours before or after an employee's regular hours of work, then he or she, upon written request, will be granted a sufficient amount of administrative leave to vote by his/her supervisor which will permit the employee to report for work three (3) hours after the polls are open or leave work three (3) hours before the polls close, whichever requires the lesser amount of time off. One work day before any national, state, or District of Columbia election, Management will provide employees notice of their rights under this section.
- C. Excused Absence for Armed Forces Connected Funerals
- (1) An eligible employee may be granted an excused absence of not more than three (3) days to make arrangements for or to attend the funeral or memorial service for an immediate relative who died as a result of wounds, disease, or injury incurred in a combat zone as a member of the Armed Forces (5 U.S.C. 6326).
 - (2) The three (3) days must be within the employee's established tour of duty, including regularly scheduled overtime. The three (3) days need not be consecutive. The employee shall furnish to the leave-approving official, an acceptable justification for use of funeral leave in nonconsecutive days.
 - (3) An eligible employee may be granted excused absence for up to four (4) hours in any one (1) day of his or her scheduled tour of duty to participate in a funeral ceremony for a member of the Armed Forces whose remains are returned from abroad for final interment in the United States. This includes veterans who attend the funerals of deceased veterans as members of firing squads or guards of honor. (5 U.S.C. 6321)
 - (4) Family member or immediate relative means the following relatives of the deceased member of the armed forces: spouse, parents, children (including adopted children, foster children or step-children) and their spouses, brothers and sisters and their spouses, and any person related by blood or affinity whose close association with the deceased was such as to have been the equivalent of a family relationship.
- D. Tardiness: Management may excuse occasional and unavoidable periods of tardiness of one (1) hour or less without charge to leave provided the employee submits a reasonable explanation regarding the reason for his/her tardiness. If the excuse is not acceptable, annual leave or leave without pay (LWOP) may be requested to cover the absence. Additionally, if tardiness is

frequent or inexcusable and does not warrant approval of leave, the tardiness may be charged to absence without leave (AWOL).

Section 7. Leave Without Pay

- A. Leave without pay is a temporary non-pay status and absence from duty.
- B. Approval Authority and Appropriate Uses. Authorizing LWOP is matter of administrative discretion. LWOP requests will be examined in conjunction with the feasibility of granting advance sick or annual leave for each individual case, as well as granting LWOP on an extended basis while waiting on a retirement or OWCP claim, but not to exceed one (1) year. An employee is not entitled to LWOP unless the following situations exist:
 - (1) Disabled veterans in need of medical treatment;
 - (2) Guard and Reserve personnel performing active duty military service;
 - (3) Conditions meeting the Family & Medical Leave Act;
 - (4) Receiving compensation for an injury/illness incurred on the job.

Section 8. Compensatory Leave

Agency granted time off from an employee's regular tour-of-duty instead of overtime payment for an equal amount of irregular or occasional overtime work. Compensatory time may be used in lieu of other types of leave.

Section 9. Court Leave

- A. An authorized absence (without loss of, or reduction in pay, leave entitlement, credit for time or service, or performance or efficiency rating) of an employee from work status for attending judicial proceedings for jury duty or in a nonofficial capacity as a witness on behalf of any party in a proceeding in which the Federal government, District of Columbia, or a state or local government is a party.
- B. Eligibility: Permanent and temporary employees in a duty status or on paid leave. There is no limitation on how long an individual may be on jury duty. Employees must reimburse to the agency fees paid for services as a juror or witness in accordance with 5 USC 5515, 5537, and 6322, if any were accepted. However, monies paid to jurors or witnesses which are in the nature of "expenses" (e.g., transportation) do not have to be reimbursed to the agency. If jury duty is performed during non-work days, holidays, or in a LWOP status, fees and allowances may be retained by the employee.

Section 10. Inclement Weather Conditions

- A. If Management must close a facility because of severe weather conditions or an emergency situation, as determined by Management, administrative leave will be granted to those employees on official duty in accordance with applicable law and regulation. If this decision is made prior to the start of the business day, a reasonable mechanism will be established to inform employees at the local worksite.
- B. When inclement weather conditions exist, a reasonable effort will be made to provide direction to bargaining unit employees at Indian Affairs worksites that is similar to the direction provided to employees of other similarly situated federal, state, or local agencies by their respective management officials.
- C. In the event of an early closing of a facility, employees will be notified as promptly as possible after the decision is made that they may leave work at no charge to the employee's personal leave account or loss of pay. The early dismissal will have no effect on the leave or pay of employees not in duty status when the dismissal became effective.
- D. It is recognized that Management is not required to, but may, grant administrative leave pursuant to this Section if an employee residing outside the commuting area is precluded from reaching work when those residing within the commuting area are able to reach work. This will be fairly applied on a case by case basis.

Section 11. Religious Leave

It is agreed that every effort will be given to accommodating the employee in meeting their religious commitments in attending various tribal or secular ceremonies by allowing the flexibility in granting appropriate leave (which may also include a combination of various types of leave). Advance collaboration between the employee and his/her supervisor will be required in order to address workload requirements. An employee may also request the opportunity to perform compensatory overtime work for the purpose of taking compensatory time off.

Article 18

Merit Promotion and Non- Competitive Promotions

Applies Only to Title 5 Employees

Section 1. General

The purpose and intent of this Article is to ensure that employees are given full and fair consideration for advancement and to ensure selection from among the best-qualified candidates. All positions shall be subject to Indian Preference in accordance with United States District Court for the District of Columbia Civil No. 04-01215 dated December 12, 2008. Actions under a promotion plan, whether in identification, qualification, evaluation, or selection of candidates or any other phase of the promotion process, shall be made without regard to political, religious, or labor organization affiliation or non-affiliation, marital status, race, color, sex, national origin, non-disqualifying physical disability, sexual orientation, or age, and shall not be based on any criteria that are not job-related, including favoritism based on personal relationship, patronage, or nepotism.

Section 2. Application of Competitive Procedures

A. Competitive procedures apply to the following actions:

- (1) Permanent promotion to a higher-graded position or to a position with a higher full performance level than previously held on a permanent basis in the competitive service.
- (2) Temporary promotions for more than 120 calendar days or details for more than 120 calendar days to a higher-graded position or to a position with greater promotion potential than previously held on a permanent basis in the competitive service.
- (3) Selection for training which is part of an authorized training agreement required before an employee may be considered for promotion.
- (4) Reassignment, transfer or change to a lower-graded position with promotion potential greater than any position held on a permanent basis in the competitive service.
- (5) Reinstatement to a permanent or temporary position at a higher grade with a higher full performance level than any position previously held on a permanent basis in the competitive service.
- (6) Promotions due to the addition of substantive, new and higher-graded duties when the new position is not a clear successor to the old position or there are other employees serving in similar or identical positions within the organizational unit to whom the new duties could have been assigned.

B. Competitive procedures do not apply to the following actions:

- (1) Upgrading of a position resulting from the correction of an initial classification error.
- (2) A promotion resulting from an employee's position being classified at a higher grade (with no further promotion potential) because of additional duties and responsibilities, commonly referred to as accretion of duties. The noncompetitive upgrade requires the employee to continue to perform the same basic function in the new position that is a clear successor to and absorbs the duties of the old position. In addition, there are no other employees within the organizational unit to whom the additional duties and responsibilities could have been assigned.
- (3) Actions taken under Reduction in Force.
- (4) Promotions without current competition when the employee competed earlier for an assignment intended to prepare the employee for the position being filled, and the intent was made a matter of record and made known to all potential candidates. These are commonly referred to as career ladder promotions.
- (5) Re-promotion, permanent or temporary, to a grade previously held on a permanent basis in the competitive service.
- (6) Promotion, reassignment, transfer, change to lower grade or reinstatement of an employee from a position with known promotion potential to another position having no higher promotion potential than any other position previously held on a permanent basis in the competitive service.
- (7) Promotion to a position with a representative pay rate equal to or lower than that of any position previously held on a permanent basis in the competitive service.
- (8) Details to higher-graded positions or temporary promotions not to exceed 120 calendar days.
- (9) Details made in 120 calendar day increments up to one year to unclassified duties.
- (10) Details made in 120 calendar day increments to the same grade or lower-graded positions
- (11) Time-limited promotions made permanent when such a possibility was publicized in the original competition notice.
- (12) Selection of a candidate not given proper consideration in a previous competitive promotion action.

Section 3. Locating Candidates and Publicizing Vacancies

- A. Candidates shall be located through advertising. No position in the bargaining unit, except those specifically excepted herein from Merit staffing competition, will be filled except as a result of the advertising for the particular vacancy or vacancies. In addition to applying for advertised vacancies, any employee may make advance application by applying as described below.
- B. Employees may submit an application to a Human Resource Office having an Applicant Supply File. Applications for positions listed under the Applicant Supply File will be kept for one year; others will be returned.

Section 4. Basic Eligibility

Each bargaining unit employee who files an application shall, upon request, be given notice in writing by the Human Resources Office as to whether or not they meet the qualifications for the position.

Section 5. Candidates

Qualitative, job-related distinctions must be made among promotion and other competitive eligibles in terms of relative merit and ability and documented through the use of a crediting plan or other rating methodology. Consideration will be given to performance appraisals and incentive awards. The validity and propriety of selective and/or ranking factors must be clearly reflected and supported by a current position description of the job for which they are used.

Section 6. Selection

Selecting Officials must ensure that all bargaining unit candidates are treated fairly and equitably. All candidates will receive notification of their selection/non-selection for the position.

Section 7. Career Ladder Promotions

All employees in career ladder positions will be promoted effective the first pay period after having met the minimum qualification requirements for promotion to the next higher grade in the career ladder, when they have demonstrated the ability to perform at the higher grade and when a "Request for Personnel Act" has been properly authorized.

Section 8. Temporary Promotions

Management will temporarily promote a qualified employee who is assigned to perform the duties of a higher graded position for twenty-one (21) consecutive work days or more. This does not apply to employees properly detailed to higher graded duties. An employee's assignment to the higher graded position will not be interrupted solely to deprive the employee of eligibility for the temporary promotion, nor shall the assignment of such higher graded duties be rotated among employees solely to avoid placing a single employee in the position for ten (10) consecutive work days if the duties need to be performed for a period of ten work days or more. This shall not preclude rotating such temporary

promotions among employees when the higher graded duties need to be performed for two (2) pay periods or more.

Article 19

Awards Program

Section 1. Purpose

The parties agree that substantial benefits will occur through energetic sponsorship and maintenance of award programs. The parties agree that consideration will be given in award programs for contributions made in safety, civil rights, productivity, efficiency, community service, EEO, as well as, other appropriate aspects of Federal Service. The program shall be administered in accordance with appropriate law, rule and regulation including P.L. 95-561, P.L. 101-335 and Department of the Interior Awards and Recognition Program directives and guidelines. Management will grant awards in a fair, equitable, consistent and objective manner.

- A. Establish National Committee which will include at least one Union appointed representative. This committee will serve in an advisory capacity to the Assistant Secretary – Indian Affairs Deputy Assistant Secretary-Management (AS-IA DASM) and the Office of the Special Trustee for American Indians, Special Trustee for American Indians.
- B. Awards, composition of awards committees, listings of recipients, dollar values and basis of awards for bargaining unit members will be provided to the Union’s headquarters. The report will be due January following the end of each performance cycle, and quarterly thereafter.
- C. When monetary awards are not feasible, non-monetary awards such as time-off awards should be considered.

Section 2. Publicity of Criteria and Results

At least annually, the National Awards Committee will:

- A. Orient all employees on the award program procedures and nomination process.
- B. Publicize the awards and recognition given to employees or groups in an appropriate manner.

Section 3. General

As a means to reward an employee whose performance exceeds expectations and as an incentive for all eligible employees who meet established criteria, Management agrees to encourage the use of quality step increases, cash awards and non-monetary awards. Supervisors will be expected to monitor employees’ performance with this objective in mind. Approved awards will be processed in a timely manner.

Article 20

Position Descriptions

Section 1. Position Descriptions

The Position Description, commonly referred to as the PD, briefly describes the key or major duties and responsibilities of a position or a number of positions. The primary use of the PD is for classification and pay purposes. However, a PD also serves as the basis for preparing an employee's performance plan/objectives, preparing a formal training plan, or reviewing and evaluating employee's current or prior work experience. Since a supervisor determines work assignments for the employee he/she supervises, it follows that the supervisor should have responsibility for ensuring that job descriptions accurately describe the duties and responsibilities required and performed. The assignment of duties to employees is not limited to the content of the position description. However, supervisors will avoid assigning employees incidental duties that are inappropriate to their positions and qualifications. Each employee is entitled to an accurate position description that clearly reflects the employee's duties, title, series, and grade. The position description will be reviewed annually.

Section 2. Change to Position Description

A position description is an item of record that should be clearly understood by the employee when he/she is hired into a position. If an employee is assigned to special or new duties on a recurring or regular basis, Management agrees to amend the employee's existing position description.

Section 3. Classification Appeal Options

- A. If an employee believes his or her position description does not accurately describe the work being performed, the employee is strongly encouraged to discuss this with the supervisor. Since the supervisor certifies the accuracy of the position description, the supervisor should be able to give an explanation of its contents.
- B. An employee may appeal the pay plan, occupational series, grade, and sometimes, the title of his or her position through the following options:

(1) **General Schedule (GS)**:

- a. Employees may appeal at any time with the bureau/office or directly to the Department (DOI). When an employee receives an appeal decision from either the bureau/office or Department, the right of appeal within Interior is exhausted. If dissatisfied with the bureau/office or Department decision, the employee may file a subsequent appeal to the Office of Personnel Management (OPM). This option affords the maximum number of reviews.
- b. An employee may file an appeal with OPM through either the bureau/office or the Department. The administrative level to which the employee files an appeal has

sixty (60) calendar days in which to provide the employee with a written decision. If the decision is favorable and the bureau/office or Department has the authority to classify the position, the necessary personnel action may be taken and the appeal closed. If the decision is unfavorable, the bureau/office or Department must forward the appeal along with the written decision to OPM for adjudication.

- c. An employee may file an appeal directly with the appropriate Regional Office of OPM. If the employee appeals directly to OPM, he/she may not later appeal to the bureau/office or the Department since OPM decisions are final.

(2) Federal Wage System:

- a. Employees must first appeal to the bureau/office or the Department. If the employee is dissatisfied with the bureau/office or Department's decision, the employee may then appeal to OPM. The employee's appeal must be filed within time frames specified by OPM (refer to www.opm.gov for details).

Article 21

Performance Standards and Evaluation

Applies to both Title 5 and Contract Education Employees

Section 1. General

Management's performance management and appraisal system shall comply with the requirements and definitions of 5 USC Chapter 43; regulations of the Department of the Interior; and, the provisions of this collective bargaining agreement. Any future changes in the regulations may require additional negotiations.

Section 2. Performance Plan

The performance plan for each employee will be developed in accordance with regulations of the Department of the Interior (DOI). At the beginning of each rating period, the rating official is required to provide an opportunity for employee input. The final decision regarding critical elements and standards always rests with the management official. The performance plan will include no less than one critical element and no more than five critical elements. These critical elements and the associated performance standards should be strategically linked, results focused, measurable, understandable, verifiable, equitable, achievable, and provide for meaningful distinctions between levels of performance.

Section 3. Monitoring/Progress Reviews

During the rating period, the rating official will conduct at least one formal progress review at approximately mid-way through the rating cycle. While only one progress review is required, additional meetings may be requested to discuss the employee's performance. It is of paramount importance to establish frequent and meaningful progress review sessions between the employee and the rating official. When inadequate or marginal performance predates any performance review by a rating official and that performance issue may result in a subsequent action being taken by that official (such as a performance improvement plan, proposed removal, or contract non-renewal), the rating official will advise the employee of the noted deficiencies that he/she is aware of at that point in time.

Section 4. Rating

- A. To be eligible for a rating of record, an employee must be under established standards for a minimum of ninety (90) calendar days. Management shall evaluate and appraise employees under their supervision in accordance with the following:
 - (1) Rating officials should compile performance data from various sources to include the employee's account of his/her accomplishments, customer feedback, and other documentation. Rating officials may use the Supplemental Employee Performance

Folder (SEPF) for written descriptions of specific employee performance, positive and negative, observed by the supervisor and related to the employee's critical and required performance results. Whenever the supervisor places such a description in the folder, the employee must be informed that the entry is being made and must be given an opportunity to comment thereon. Nothing should be placed in SEPF without employee seeing and initialing it.

- (2) The rating assigned will reflect the level of the employee's performance as compared to the standards established. If the employee does not have an opportunity to perform a critical element during the rating period, no rating will be assigned and the words "Not Rated" should be written on the appraisal for that element. Where Management authorizes and approves the use of official time, pursuant to Article 3 for Union representation activities, such time will not be considered as a negative factor in evaluating the employee's performance. Management will consider work-related factors beyond the control of the employee that may have impacted attainment of written elements and standards. The responsibility for bringing these to the supervisor's attention rests with the employee. When Management determines that training is required as the result of the assignment of new tasks, such training will be provided.
- (3) Upon written request by the employee, documentation used in an employee appraisal shall be provided to the employee at the time of the appraisal by the supervisor. The employee has a right to review their SEPF upon written request.
- (4) A bargaining unit employee may request reconsideration of a negative summary performance rating issued by the immediate supervisor in accordance with current DOI policy as captured in the DOI Performance Appraisal Handbook www.doi.gov.
- (5) Management will not require employees to back date planning session records or performance appraisals.

B. The rating period for employees in the Bureau of Indian Education is from July 1 through June 30. The rating period for all other employees is from October 1 through September 30.

Section 5. Performance Improvement Plan (PIP)

- A. If at any time during the rating cycle the supervisor determines an employee's performance is unsatisfactory in one or more critical elements, the employee must be placed on a written PIP to assist in improving the performance to at least the Minimally Successful level. A PIP includes:
- (1) Identification of the critical element(s) where the employee is working at the unsatisfactory level;
 - (2) Clarification and greater specificity regarding performance expectations, if necessary;
 - (3) Minimally Successful level of performance required;

- (4) Needed action(s) to obtain minimally successful level of performance;
 - (5) Provisions for counseling, training, or other appropriate assistance, if any; and
 - (6) Warning concerning the consequences of continued performance below the Minimally Successful (“acceptable”) level.
- B. The goal of a PIP is to give the employee an opportunity of at least thirty (30) calendar days to demonstrate acceptable (Minimally Successful) performance in all critical elements. For Contract Education employees, the opportunity to improve will occur while the employee is in a duty status.
 - C. If, at any time, the supervisor determines the employee has demonstrated acceptable performance the PIP may be terminated. The employee will be notified, in writing that the PIP has been terminated and he or she has been evaluated as at least Minimally Successful in the critical element.
 - D. If the employee is demonstrating some improvement but has not yet achieved acceptable performance, the PIP may be extended for additional thirty (30) or more calendar days. Contract Education Employees may be given no more than one (1) contract term to raise the summary rating to Minimally Successful. A second consecutive rating of Unsuccessful shall result in removal or non-renewal of the Contract Education employee. Removal of non-probationary employees for inadequate performance under 5 CFR 432 shall not occur unless a PIP has been implemented.
 - E. Failure of the employee to correct performance deficiencies during the PIP will result in the employee receiving an Unsuccessful Rating. Demotion, removal, or contract non-renewal of the employee, whichever is appropriate, will be taken. Non-renewal of non-probationary Contract Education employees is subject to Management appeal process pursuant to Article 30 Section 4.
 - F. The employee may appeal to either the Merit Systems Protection Board (MSPB) in accordance with applicable law or file a grievance under the negotiated grievance procedure. Contract Education employees may not appeal to MSPB but may only file a grievance under the negotiated grievance procedure.

Section 6. Group Sessions and Training

When local training on the Bureaus’/Offices’ performance appraisal system is provided to managers and/or supervisors, bargaining unit employees and employees of the Union may be given the opportunity to attend.

Article 22

Actions Based on Unacceptable Performance

Section 1. Conditions for Removal or Reduction in Grade

An employee may be reduced in grade, contract non-renewed, or removed for unacceptable performance as follows: When an employee is performing at an unacceptable level, the employee will be notified, in writing, of the unacceptable performance, what action must be taken to improve the performance to an acceptable level, and the assistance that will be provided by Management. The employee will be given at least thirty (30) calendar days in which to bring the performance up to an acceptable (Minimally Successful) level. At the end of the above period, a written appraisal of the employee's performance will be issued. If the performance has not improved to an acceptable level, Management will give the employee a thirty (30) calendar day advance written notice of the proposed action. The employee will have ten (10) calendar days within which to respond to the proposed action. The proposed action will identify:

- A. Specific instances of unacceptable performance by the employee on which the proposed action is based; and
- B. Critical elements of the employee's position involved in each instance of unacceptable performance.

Section 2. Final Decision

The final decision will be made, or concurred in, by an official in a higher position than the official who proposed the action.

Section 3. Appeal Options

Any decision letter to an employee stating that action under Section 1 of this Article will be taken, will inform the employee of his/her option to appeal the action to the MSPB or through the negotiated grievance procedure, but not both. Contract education employees can only appeal through the negotiated grievance procedure.

Article 23

Discipline and Adverse Actions

Section 1. General

The purpose of discipline is to correct the offending employee's behavior and maintain discipline and morale among other employees. Accordingly, it is the policy of Management that after determining that misconduct occurred and that corrective action is warranted, discipline should be initiated as soon as practicable after the misconduct which prompted it and effected on a progressive and equitable basis as much as possible. However, management retains the right to take disciplinary action as it deems appropriate and on a case-by-case basis. A minor disciplinary action is a reprimand or a suspension of 14 days or less. An adverse action is a removal, suspension of more than 14 days, or reduction in grade or pay (not at the employee's request). A furlough of 30 days or less (for a permanent full-time employee when furlough is not a condition of employment) also constitutes an "adverse action" but furloughs are taken for programmatic reasons, and not for cause. In determining the penalty, Management should consider such factors as the nature of the offense, the employee's past disciplinary record, the nature of the position, and any aggravating/mitigating or unusual circumstances. Discipline and adverse action must be consistent with applicable laws and regulations and will be taken only for just cause. Letters of Reprimand shall not remain in the Official Personnel Folder (OPF) for longer than twelve (12) months, however, the letter may be removed at an earlier date at Management's discretion. It is agreed that no employee who enrolls and participates in good faith in the Employee Assistance Program (EAP) will be subject to disciplinary action based on the employee's participation in EAP. Management shall consider, as appropriate, the employee's participation in EAP in mitigation of any disciplinary action resulting from conduct related to the employee's problem. At the point Management becomes aware or should have reasonably been aware of a disciplinary action, a proposal should occur within a reasonable period of time from the date Management became or should have reasonably become aware of the facts forming the basis for the disciplinary action.

Section 2. Representation

An employee is entitled to Union representation at any examination by the employer in connection with an investigation if the employee reasonably believes that the examination may result in disciplinary action against him or her, and the employee requests representation. Prior to issuing a notice of proposed disciplinary action, or a notice of proposed adverse action, the manager issuing the letter or notice, or his/her designee, may undertake an appropriate inquiry, which should normally include discussion with the employee, in accordance with all applicable laws and regulations.

Section 3. Notice

The Supervisor/Manager agrees to give a thirty (30) calendar day notice of a proposed disciplinary/adverse action to the employee and will furnish the employee a second copy of the proposal letter which the employee may provide to their representative, except for a letter of reprimand (which requires no notice). This notice will be in writing and will include:

- A. Description of the specific incident(s) on which the proposed action is based;
- B. The name of the management official who will receive the employee's oral and/or written response;
- C. That employees will normally receive up to a total of eight (8) hours of official time to prepare an answer to the proposal;
- D. The right to review all evidence used to support the charge(s);
- E. The right of the employee, or the representative designated by the employee, to request an extension of the time to respond; and

Section 4. Action by the Deciding Official

- A. After considering the evidence, the employee's response, if any, the Douglas Factors or other aggravating/mitigating factors, the Management official shall take an appropriate action such as:
 - (1) Withdraw the proposed action;
 - (2) Institute a lesser action;
 - (3) Institute the proposed action;
 - (4) Stay the action; or
 - (5) Settle.
- B. Absent any extenuating circumstances, Management will issue the decision no later than sixty (60) calendar days from the date the employee's final reply is received. If a reply is not provided by the employee, the decision will be issued no later than ninety (90) calendar days from the end of the reply period. This decision will be in writing, and, in (2) and (3) above, will include the employee's right to file a grievance under the negotiated grievance procedure for a disciplinary action or in the case of an adverse action under 5 USC 7512, to file an appeal to the Merit Systems Protection Board or a grievance under the negotiated grievance procedure, but not both. The decision will include the name and work phone number of the designated local Union official when such information has been furnished to the appropriate Human Resources Office or the name and work phone number of the Union's national office or staff representative assigned to the area.
- C. In adverse actions, the decision will inform the employee that they will have exercised their option to raise the matter under one procedure or the other at the time the employee files a timely grievance or files a notice of appeal under applicable MSPB procedures. In addition to issuing the employee one copy of the letter, Management will furnish a second copy of the letter to the

employee which the employee may provide to his/her representative. In no case will the effective date of an adverse action be sooner than thirty (30) days from the date of the proposal.

Section 5. Crime Provision and Indefinite Suspension

- A. Crime Provision: If the Bureau has reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment may be imposed, the required thirty (30) day advance written notice period before imposition of an adverse action may be shortened.
- B. Indefinite Suspension: Management may impose an indefinite suspension for the reason noted in paragraph 5.A. above. The reasonable cause requirement may be satisfied by such things as an indictment (or a similar judicial finding) or a separate investigation. Management may initiate/continue an indefinite suspension under the following, but not limited to, circumstances:
 - (1) When the Bureau/Office is contemplating further action and has advised the employee of the possibility of further action;
 - (2) When the Bureau/Office takes final action within a reasonable period after the resolution of criminal charges.
- C. The indefinite suspension is grievable or appealable to MSPB.

Article 24

Alternative Dispute Resolution (ADR)

Important Note: The intent of this article is to discuss the option of using Alternative Dispute Resolution under the Department of the Interior Conflict Resolution Plus (COREPLUS) Program to resolve grievances filed under the negotiated grievance procedures described in Article 25 of this collective bargaining agreement. Time frames discussed in Article 25 for filing a grievance must still be met. Grievances submitted under COREPLUS that are outside the time frames of the grievance procedure will be considered not timely, but will be accepted by the COREPLUS to attempt resolution of the issue. Also note that COREPLUS does **NOT** replace any legal or administrative avenues of redress available to employees or provide any extension of time frames in which to seek redress under any formal administrative processes unless otherwise provided for within a specific administrative process such as (but not limited to) Equal Employment Opportunity (EEO) complaint process or Merit Systems Protection Board Appeals.

Section 1. Overview

- A. The parties agree that employees may utilize the Department of the Interior's alternative dispute resolution process, Conflict Resolution Plus (COREPLUS). The parties agree to follow the procedures established in Part 370 Chapter 770 of the Departmental Manual (370 DM 770).
- B. Employees may elect to be represented in the COREPLUS process. Provisions for official time for the COREPLUS process are in accordance with the basic agreement between the parties.
- C. Grievances submitted under COREPLUS that are outside the time frames of the grievance procedure will be considered not timely, but will be accepted by the COREPLUS to attempt resolution of the issues.
- D. In the event the employee chooses COREPLUS, the time frames established for the handling of a timely filed grievance by the grievance procedure described in Article 25 are extended to either the issuance of a Notice of Results and Options or written notice by the employee or his/her representative that he/she no longer elects to utilize COREPLUS.

Section 2. Grievance Mediation

- A. The parties agree the Department of the Interior's alternative dispute resolution process, Conflict Resolution (COREPLUS), may serve as an early intervention alternative to the traditional dispute process. The purpose of the COREPLUS program is to provide a fair, equitable and effective means for resolving workplace disputes at the earliest opportunity, at the lowest organizational level, and to the mutual satisfaction of the parties.

- B. The parties agree that grievance mediation may be an effective method of resolving grievances efficiently and economically by using the services of an objective third party to help the parties gain mutually acceptable grievance resolutions. Either a mutually agreed to mediator or a Federal Mediation and Conciliation Service (FMCS) Commissioner will act as a mediator in grievance procedures. The parties agree to the following as governing procedures for the grievance mediation process.
- C. Grievance mediation may occur in each grievance step providing:
- (1) Either party requests mediation in writing; and
 - (2) The other party agrees to mediation, although pursuant to 370 DM 770, it is understood that a supervisor will participate in mediation if requested by the employee(s).
- D. Coverage:
- (1) All matters subject to the negotiated grievance procedure are appropriate for inclusion in the grievance mediation process.
 - (2) In the case of disciplinary action, grievance mediation may be invoked as an intermediary step between the decision of the deciding official and before arbitration, if arbitration has been invoked.
- E. Requesting Mediation: While the mediator shall have no authority to impose a resolution on the grievance, either or both parties may request that the mediator suggest a resolution or offer a recommendation to the parties. The mediator will have the authority to meet separately with either or both parties.
- F. Proceedings:
- (1) The grievant or his/her representative will request mediation in writing.
 - (2) Proceedings before the mediator will be informal. Rules of evidence shall not apply. No record of the meetings shall be made.
 - (3) The parties may be represented by the representative(s) of their choice.
 - (4) Those employees and supervisors who were successful and reached a resolution of the grievance will develop a written settlement agreement.
 - (5) An employee who agrees to utilize mediation does not waive his/her right to continue to process the grievance once the mediation phase is completed.
- G. Termination of Mediation:

- (1) Either party may terminate the mediation at any time during the process.
- (2) Employees and supervisor cannot be forced to reach agreement. If the employee is not satisfied with the mediation results, he/she may proceed with the next step of the grievance procedure.
- (3) Any materials presented to the mediator shall be returned to the party presenting the materials at the termination of the mediation conference.

Article 25

Grievance Procedure

Section 1. Purpose

The negotiated grievance procedure (NGP) provides a mutually acceptable method for prompt and equitable resolution of grievances for bargaining unit employees. It is the intent of the Parties to resolve grievances informally at the earliest possible time and at the lowest possible level. This negotiated procedure shall be the sole and exclusive administrative procedure available to employees for settlement of grievances.

Section 2. Definition

A. Grievance means any complaint:

- (1) By any bargaining unit employee concerning any matter relating to their employment; or
- (2) By the Union concerning any matter relating to the employment of any bargaining unit employee; or
- (3) By any bargaining unit employee, the Union, or Management concerning:
 - a. The effect or interpretation or a claim of breach of this Agreement; or
 - b. Any claimed violation, misinterpretation of any law, rule or regulation affecting conditions of employment.

Section 3. Exclusions

The following matters are excluded from coverage under the grievance procedure and will be rejected if grieved. However, questions concerning application of procedures may be addressed by the Union representative to the Bureau Labor Relations Officer or designee.

- A. Matters relating to prohibited political activities (5 USC, Section 7321);
- B. Retirement, life insurance, or health insurance;
- C. Examination, certification or appointment;
- D. Non-selection for promotion from lists of properly ranked and certified candidates;
- E. Non-selection for detail;
- F. Furloughs of employees under appointments subject to furlough;

- G. Termination of a Temporary Promotion;
- H. Termination or Expiration of Temporary Appointments;
- I. Expiration of Time-limited Appointments;
- J. Termination During Probationary Period;
- K. Classification of any position that does not result in the reduction in grade or pay of an employee;
- L. Counseling with a proper oral warning between a supervisor and an employee;
- M. Proposal of disciplinary, adverse, or performance related actions;
- N. Suspension or Removal for National Security purposes (5 USC, Section 7532);
- O. Removal for failure to pass background investigation based on suitability (e.g., PL 101-630);
- P. Periodic discussions of performance between the supervisor and employee during the appraisal period;
- Q. Content of written policies and regulations of OPM, DOI, AS-IA, BIA, BIE, and OST;
- R. Non-adoption of a Suggestion; disapprovals of Quality Step Salary Increases, Performance Awards, or other Discretionary or Honorary Awards.

Section 4. Other Applicable Procedures

As provided for in 5 USC Section 7121, the following actions may be filed either under the statutory procedure or under the NGP but not both:

- A. Actions based on unsatisfactory performance (5 USC Section 4303);
- B. Adverse Actions (5 USC Section 7512), and/or
- C. Discrimination (5 USC Section 2302(b)(1)).
 - (1) The employee shall have the option of choosing a procedure. Filing constitutes a final decision of the employee's choice.
 - (2) Nothing in this Agreement shall constitute a waiver of any further appeal or review rights permissible under 5 USC Chapter 71 in accordance with this agreement. Only Title 5

employees can appeal adverse actions or unsatisfactory performance based actions to the Merit Systems Protection Board (MSPB).

- (3) If the employee files with the MSPB, Equal Employment Opportunity Commission (EEOC), or under the NGP, the respective procedure will be used.

Section 5. Representation

Any Employee desiring representation under the negotiated grievance procedure at any step may have only Union representation or someone appointed by the Union. An employee may personally present a grievance and have it resolved without representation by the Union provided the Union is at all discussions between Management and the employee in the grievance process and resolutions.

Section 6. Resolution

Most grievances arise from misunderstandings or disputes that can be resolved promptly and satisfactorily on an informal basis at the immediate supervisory level. The Employee and their immediate supervisor, or the Management Official who has the authority to resolve the matter, are encouraged to meet to discuss any cause of dissatisfaction in an effort to resolve the matter prior to raising the issue as a grievance. The Union is also encouraged to have discussions with Management in an effort to resolve matters prior to filing a grievance in the matter.

Section 7. Procedure

- A. Time Frame. Unless it is continuing in nature, the grievance must be received (date stamped) within fifteen (15) work days of the incident or personnel action giving rise to the grievance or within fifteen (15) work days after the date that the grievant could reasonably be expected to be aware of the incident or personnel action. A continuing violation is an exception to the general rule for grievance filing time limits. For example, where the Union or an employee asserts that an alleged violation has occurred on a continuing basis, a grievance filed within fifteen (15) work days of a discrete event would be considered timely filed. This exception would exist when neither the Union, nor the employee, nor Management was aware or may reasonably have been expected to be aware of the facts or assertions giving rise to the grievance.
- B. Format: Grievance Form (Appendix E) must be completed and must contain the following:
 - (1) Employee's Name/Union
 - (2) Office, School, or Agency location;
 - (3) Telephone number;
 - (4) Date of the alleged incident or personnel action
 - (5) Description of the facts of the grievance

- (6) Provision of the agreement allegedly violated (if any and how)
- (7) Relief sought by employee
- (8) Issues to be addressed throughout the grievance process (no additional issues may be added later in the grievance process)
- (9) Employee signature(s) or Union representative's signature, and date.

C. Missing Information: A grievance missing any of the abovementioned information will be returned to the Employee/Union who will have five (5) work days from the date received to furnish the additional information and return it to Management. Failure to meet time limits will automatically cancel the grievance.

Section 8. Exchange of Information

- A. The parties have an obligation to share information which is relevant and necessary to the issues raised within the scope of the grievance, to the extent that it is available to the parties at that time and its disclosure is not otherwise precluded by statute or regulation in effect at the time of the signing of this collective bargaining agreement. Information should normally be exchanged prior to a grievance meeting being held or a decision being rendered on the grievance. This information should be promptly provided to the opposing party, and when practicable, at least two (2) full work days prior to a grievance meeting.
- B. The parties may agree, in writing, to extend the time frame for responding to, or otherwise processing, a grievance, if the circumstances warrant such agreement.

Section 9. Step 1 Grievances

- A. Workplace Grievances. A formal grievance over a workplace issue shall be filed with the immediate supervisor.
- B. Disciplinary Grievances (letters of warning, reprimands, suspensions of 14 calendar days or less). A formal grievance over a disciplinary action, shall be filed with the next level supervisor or with the lowest level management official with the authority to resolve the issue. The grievance will proceed through the chain of command no further than the official that has both proposing and deciding authority on disciplinary matters. If the identity of this official is unknown to the employee, he/she may file the grievance with his/her supervisor or with the deciding official, who shall promptly forward it to the appropriate Management official.
- C. Adverse Actions (suspensions more than 14 calendar days, reduction in grade or pay, removals, or furlough of 30 days or less). The grievance over an adverse action will be filed with the supervisor of the deciding official, unless the deciding official has final authority for adverse actions in their organization. In that instance, the grievance will be filed with the deciding

official. If the decision is upheld, the Employee/Union will be notified within ten (10) work days of the decision, at which time they may invoke arbitration.

- D. Group or Class Grievance: The Union may file a single grievance under this procedure on behalf of any number of employees who have similar claims. Several grievances filed by different employees over an identical matter, filed at one or more offices shall be combined and treated as a single grievance upon request of the Union.

Section 10. Response to Step 1

- A. Management shall issue a final written response to the Employee/Union and Union representative (if designated) within ten (10) work days from receipt of the Step 1 grievance. The written response shall include:
 - (1) Rationale for the decision made;
 - (2) Name, Title, Address, and Telephone Number of the Management Official for the Step 2 grievance.
- B. Either party may request a meeting or appropriate conference call be held on the matter. If the grievant does not receive an answer within the designated time limit for responding to the Step 1 grievance, it may be elevated by the Employee/Union or Union representative to Step 2.

Section 11. Step 2 Grievances

If the grievant does not accept the written decision, a Step 2 grievance may be filed within ten (10) work days of receipt of the written decision to the next level supervisor.

Section 12. Response to Step 2

- A. Management shall issue a final written response to the Employee/Union or Union representative (if designated) within ten (10) work days from receipt of the Step 2 grievance. The written response shall include:
 - (1) Rationale for the decision made;
 - (2) Name, Title, Address, and Telephone Number of the Management Official for the Step 3 grievance.
- B. Either Party may request a meeting or appropriate conference call be held on the matter. If the grievant does not receive an answer within the designated time limit for responding to the Step 2 grievance, it may be elevated by the Employee/Union or Union representative to Step 3.

Section 13. Step 3 Grievances

If the grievant does not accept the written decision at Step 2, a Step 3 grievance may be filed within ten (10) work days of receipt of the written decision with the next level supervisor, as appropriate or as designated. The grievance will proceed through the chain of command no further than the official that has both proposing and deciding authority on disciplinary matters. Either Party may request a meeting or conference call be held to discuss the grievance.

Section 14. Response to Step 3

Management must render a written decision within ten (10) work days from receipt of the Step 3 grievance. The decision will include the Union's right to request Arbitration. (See Article 26, Section 5, Invoking Arbitration)

Section 15. Expedited Grievance Procedure

Parties may mutually agree on a case-by-case basis to waive any step of the grievance procedure.

Section 16. Management Grievances

Management may file grievances against the Union within fifteen (15) work days of the incident or the date Management could be expected to be aware of the matter. Management shall bring the matter to the attention of the Union President or designee, who shall render a decision in writing within ten (10) work days.

Section 17. Union Grievances

- A. A union grievance is a grievance as defined in Section 2.A. of this article, i.e., any allegation by the Union concerning any matter related to the employment of any bargaining unit employee, group of employees, or the Union, concerning the effect, interpretation of, or a claimed breach of, this Agreement; or any claimed violation or misinterpretation of, any law, rule or regulation effecting conditions of employment of bargaining unit employees, in which the Union is the Grievant although the allegation of a violation may impact the working conditions of one or more bargaining unit employee(s).
- B. Union grievances which involve a matter that has arisen solely in one of the four Bureaus/Offices in the unit (BIA, BIE, OST, or AS-IA) shall be filed by the Union's President or designee with the respective office director: Director of the BIA, Director of the BIE, the Special Trustee, or the Assistant Secretary. Union grievances which involve a matter that has arisen in more than one of these organizations shall be filed with the senior management official deemed appropriate as captured in official AS-IA, BIA, BIE, or OST organizational charts normally found in the 100 series of the Departmental Manual. Unless they are continuing in nature, Union grievances shall be filed within fifteen (15) work days of the incident or the date the Union could reasonably be expected to be aware of the matter. Management shall render a decision in writing within ten (10) work days.

Section 18. Time Limits

Parties may extend any time limit during any step of the grievance on a case-by-case basis by mutual agreement. Parties will agree to a reasonable extension of the time limits. Failure of the Employee to meet any of the time limits at Step 1 or to request and receive an extension of time shall automatically cancel the grievance, unless mutually agreed otherwise. Failure of Management or the Union to meet time limits or to request and receive an extension of time shall automatically move the grievance to the next step. All time frames in this Article refer to work days, unless specified otherwise.

Section 19. Cancellation

Grievances will be cancelled:

- A. At the Employee's or Union's request;
- B. Upon termination of the Employee's employment with the Agency, unless personal relief to the Employee may be granted after termination of employment;
- C. Upon death of the Employee, unless the grievance involves a question of pay, records, leave or retirement;
- D. When Management has granted the remedy requested;
- E. When the grievance is resolved.

Article 26

Arbitration

Section 1. General

The purpose of this Article is to provide for the satisfactory settlement of grievances involving the effect or interpretation, or a claim of breach of the collective bargaining agreement, or any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment. Questions of arbitrability or grievability, which cannot be resolved by the parties, shall be referred to the arbitrator for decision.

Section 2. Grievability/Arbitrability

When it is determined by an arbitrator that an issue is not grievable or arbitrable, the grievance shall terminate and no ruling on the merits of the case shall take place.

Section 3. Arbitrator's Authority

The arbitrator shall have no authority to alter, amend, add to or subtract from the negotiated agreement. The arbitrator shall be bound by and must comply with all terms of the agreement.

Section 4. Expedited Arbitration Procedures

When mutually agreed upon, the parties may utilize an expedited arbitration proceeding as an alternative to a full hearing. Options for such an expedited proceeding are:

- A. A Bench decision whereby the parties waive briefs and/or transcripts. Any such Bench decision need not be lengthy, but must contain the rationale and basis for the award.
- B. Written submissions and arguments from each party, which presents their respective cases, without a hearing.
- C. Hearing by telephone with briefs.
- D. An arbitrator inquiry when a formal hearing would serve no purpose. In this case the arbitrator would make such inquiries, as he/she deemed necessary, e.g., inspecting work sites, taking statements.

Section 5. Invoking Arbitration

If a decision on a grievance processed under the negotiated grievance procedure is not satisfactory, the President or designee, acting on behalf of the Union, or Management may invoke arbitration by a written memorandum identifying the matters to be submitted, within twenty-one (21) work days of the decision at the last step unless the time limit is extended by mutual agreement of both parties.

Section 6. Hearing Site

An arbitration hearing will normally be held at the site where the grievance originated; however, to reduce costs and in the interests of efficiency, the hearing site may be changed by mutual consent. If mutual consent cannot be reached, the arbitrator may be requested to determine the hearing site.

Section 7. Arbitration Panel

The parties will jointly contact the arbitrators on the list in the order in which they were provided by the Federal Mediation and Conciliation Service (FMCS) to determine availability and willingness to serve on the panel. A negative reply by an arbitrator will result in the parties continuing through the list until an arbitrator is reached who agrees to serve. If the initial list is exhausted without an arbitrator agreeing to serve on the panel, a new list will be obtained from the FMCS and the above noted process will continue until an arbitrator agrees to serve on the panel. Fees for this service shall be equally shared by the parties.

Section 8. Notification of Selected Arbitrators

The arbitrator list shall be jointly managed by the Director, Office of Human Capital Management – Indian Affairs (OHCM-IA) or designee and the Union President or designee. Disputes concerning the arbitrator order should be resolved between these parties prior to an arbitrator being notified of his or her assignment to a specific case. It shall be the responsibility of the party who invokes arbitration, the Union President or designee, to notify the Director, OHCM-IA. The Director, OHCM-IA, shall notify the next arbitrator on the list of his or her assignment to a particular case and a copy of this notice will simultaneously be provided to the Union President or designee. (See sample notification letter in Appendix F). The parties shall promptly notify the opposing party and the arbitrator of the name, phone number, address, and e-mail address of their respective representatives or point of contact. Normally, the notification of the respective representatives will occur within ten (10) work days of the notice being provided to the arbitrator.

Section 9. Exclusive Panel

The panel will be used for all arbitrations.

Section 10. Mediation

Nothing shall prevent use of the arbitrators for mediation, if mutually agreed by the parties.

Section 11. Decisions

Arbitrators will be requested to render decisions no later than thirty (30) days after the close of the arbitration hearing or no later than thirty (30) days after receipt of post-hearing briefs.

Section 12. Visitors

Visitors and observers will be allowed to attend and observe arbitration proceedings if mutually agreed upon by the parties and the arbitrator.

Section 13. Witness Work Schedules

To allow approved witnesses to participate in arbitrations, employee schedules may be adjusted to allow for travel or conflicts with regular days off, subject to mission and workload requirements. The parties will work to resolve any problems or disputes in this regard well in advance of scheduled arbitration hearings, provided that witnesses have been timely identified. Overtime pay will not be paid to witnesses or any other arbitration participants.

Section 14. Scheduling of Arbitration

The arbitrator will be responsible for scheduling the hearing on a mutually agreeable date. However, the scheduling of a hearing shall not be delayed due to a parties' failure to designate a representative. Nor should the hearing be unreasonably delayed, in which case the arbitrator has the authority to unilaterally determine the hearing date with notice to all parties.

Section 15. Withdrawal

A grievance may be withdrawn in writing by the grieving party at any stage prior to the arbitration hearing. The arbitrator cancellation fees, if any, will be shared equally by the parties, except when a negotiated settlement may apportion costs differently.

Section 16. Arbitrator's Fees

Arbitrator fees and expenses shall be borne equally by the parties. All arbitrator fees, per diem, travel costs, and court reporter fees, and expenses will be equally split. If either party requests a transcript, that party will bear the entire cost of such transcript.

Section 17. Witnesses and Representatives

- A. The parties will pay 100 percent of their own representative(s) and witness fees, travel, per diem, and expenses. The parties will equally share the costs of travel and per diem, as appropriate for any witnesses deemed necessary by the arbitrator.
- B. The Arbitrator, prior to the hearing, will resolve questions raised as to whether a witness is necessary. The Union representative, if an employee of the agency, the grievant(s), and any employee called as a witness whose presence is determined to be necessary, will be excused from duty and authorized official time, if they would otherwise be in duty status, to the extent necessary to participate in and prepare for the official proceedings. Overtime will not be paid to witnesses, representatives, or any other arbitration participants.

- C. The parties will furnish names of any witnesses and representatives, their installation and work location, if not located at site, to the other party at least ten (10) work days in advance of the arbitration. If witnesses are added to the list after the 10-day deadline, the other party will be informed in writing immediately. When witnesses are outside a 200-mile radius, the parties will attempt to obtain testimony without requiring witness travel.

Section 18. Attorney's Fees

Reasonable attorney fees may be awarded, notwithstanding Section 4 of this Article if they could be awarded based upon criteria outlined in 5 USC 7701(g)(1). If the arbitrator determines that payment is warranted in the interest of justice in any case in which a prohibited personnel practice was engaged in by the Agency or where the Agency's action was clearly without merit, such fees may not exceed the salary of the attorney representative for the time actually devoted to the case if the representative is an employee of the Union.

Section 19. Exceptions

- A. Either party may file an exception to an arbitrator's award with the Federal Labor Relations Authority under procedures established by the authority. A copy of any filed exceptions will be provided to the other party at the time of filing; or
- B. Either party may seek judicial review of the arbitrator's decision on matters which could have been appealed to the MSPB within thirty (30) calendar days of the issuance of the decision.
- C. Either party may seek review as outlined above, but in the event a review is filed only on the attorney fees and expenses portion of the award, the remedy shall be effected immediately.

Section 20. Back Pay Awards

Awarding of back pay by an arbitrator will be in accordance with the Back Pay Act.

Article 27

Training

Section 1. Determination

Although it is expected that personnel are basically qualified to perform their duties as a prerequisite to employment, the Parties recognize the importance of additional training, or retraining, to assure development and career planning for employees and to maintain the competence of the work force.

Section 2. Training Program

Management is responsible for establishing training programs to improve employee efficiency, to contribute to merit promotion from within the unit, whenever practicable, and to assist employees impacted by a Reduction In Force, reorganization, or transfer of function to obtain placement in another agency. Professional or staff development programs shall be of the highest quality possible as determined by Management and instructed and administered by qualified people in the appropriate work-related matters. In developing such programs, Management agrees to consider the views of the Union.

Section 3. Union Sponsored Training

Management is encouraged to approve training to enhance job skills for employees. If such training is Union sponsored, the Union will submit a timely request that contains: an agenda/written description of the training or seminar, the dates, and the location of the training. The Union will submit all requests, for informational purposes, to the Human Resources Office at least one (1) month in advance of the scheduled training or conference. Approval of training requests will be based on workload needs, budgetary considerations, and the determination that the Union sponsored training is of mutual benefit to both Management and the Union. Agency funds may or may not be used to pay training or travel expenses associated with any such training.

Section 4. Scheduling

It shall be a matter of interest and concern for Management and the Union that appropriate courses, seminars, conferences, and meetings be scheduled, whenever possible, during work hours to allow the employees the opportunity to gain information, education, and training. To the extent feasible, education employees shall not schedule such training during the students' instructional time. Mandatory training after normal duty hours shall entitle the employee to compensation.

Section 5. Records

It is the responsibility of Management to document and maintain employee training records. The Union agrees to encourage employees to review the appropriate records to assure that training is accurately recorded.

Section 6. Expenses

Management agrees to extend every reasonable consideration to the reimbursement of expenses incurred by an employee in attendance at work-related courses on his/her own time. An employee desiring to enroll in a non-Government facility shall submit a memorandum of request via the supervisor prior to the registration. Partial or full reimbursement, if approved, shall be in accordance with existing policies and regulations. This Section shall not apply to educational leave as specified in Article 30, Section 7.

Section 7. Use of Equipment

Management may make available academic aids such as desks, calculators, computers, etc, if available on the premises of the activity, to all employees enrolled in approved training courses, at mutually agreeable times during the employee's non-duty hours.

Section 8. Self-Development

The Parties mutually agree to encourage employee self-development.

Article 28

Motor Vehicle Operation

All processes of obtaining or retaining such special licenses shall be on official duty if the employee would otherwise be in duty status. In remote localities, where travel and transportation would be required to complete the licensing or renewal process, management will authorize travel and per diem. All such travel shall be duly authorized in accordance with Agency regulations.

Article 29

Law Enforcement

Section 1. General

All articles of this contract apply to Law Enforcement Services employees except those articles that pertain exclusively to Education personnel. The parties agree that Community Policing philosophy will be implemented. The mission of the Bureau of Indian Affairs, Office of Law Enforcement Services, is to provide quality law enforcement services to Indian Country by promoting a safe environment through police and community interaction which identifies and resolves community problems and employs innovative, pro-active problem solving strategies based upon community policing philosophy.

Section 2. Purpose

Law Enforcement employees at all levels have the responsibility to reduce crime in Indian Country through community policing activities such as:

- A. Participate in alcohol and drug abuse prevention and crime prevention activities;
- B. Organize individual communities to develop strategies to combat domestic violence;
- C. Public relations program to generate community involvement with community law enforcement efforts; and
- D. Utilize media to enhance the mission of the Bureau of Indian Affairs through authorized public announcements.

Section 3. Code of Conduct

Law Enforcement employees at all levels will continually strive to adhere to applicable codes of conduct.

Section 4. Uniforms, Weapons and Safety Equipment

Management will provide required uniforms, weapons, and safety equipment, as appropriate, for Law Enforcement employees. Union pins may be worn on the uniform.

Section 5. Court Appearances

Off duty Police Officers required to appear before a court of law in connection with official duties shall be compensated in accordance with applicable laws, rules and regulations.

Section 6. Training

Management will provide a systematic approach to training, such as:

- A. Training commensurate with the employee's official duties as applicable,
- B. Community Policing training,
- C. Stress Management training,
- D. Employee Assistance Program services for employee and family counseling as appropriate.

Section 7. Awards

Management will utilize the DOI incentive awards program in an equitable manner at all levels. Management will reference Article 19 of this agreement for guidance, as appropriate.

Section 8. Surveys

Law Enforcement employees will periodically be surveyed regarding working conditions and issues of concern. This information will be shared with the Union.

Article 30

Education Personnel System

This Article covers Contract Education Employees. Where 62 BIAM 11 and this Agreement conflict, this Agreement will govern.

Section 1. Employment

Contract Education Employees under the authority of P.L. 95-561 are recognized as employees of the Bureau of Indian Education. They will be evaluated, supervised, rewarded, disciplined, compensated, hired and removed by BIE management employees. Where 25 CFR Part 38 and this Agreement conflict, the provisions of this Agreement will govern.

Section 2. Employment Contract

- A. There will be a contract between the Bureau of Indian Education and the individual employee hired or converted under P.L. 95-561, as amended. In the event the terms of such contract conflict with the terms of this agreement, this agreement will govern. The contract will show the position title, the beginning and ending dates of the contract of the career seasonal employee, the hourly and contract salary, the number of vacation days, and the number of administratively determined work days.
- B. The number of instructional days in the school year will not be changed without first obtaining a waiver as required in 25 CFR.
- C. When a pre-employment or post-audit review of the qualifications of the employee shows that the employee is not suitable or qualified for the position or salary assigned, the contract may be adjusted or terminated. If an error in pay step or level is found that is no fault of or is done with no knowledge of the employee, and if the employee requests a waiver of overpayment, the Human Resource Officer will recommend to the Bureau's Payroll office that the overpayment be waived. If an error is found that indicates the employee is at a lower level or increment, the correction in pay will be made in the first pay period following the end of the audit. The audit must be completed within 90 days of the appointment.
- D. Where underpayment is found to be solely due to Management administrative error, the employee will be made whole and paid interest on the unpaid amount at the statutory rate.

Section 3. Probationary Period

A. Probationary Period

- (1) New employees will serve a probationary period of one (1) academic year. An academic year is further defined to be the equivalent of two (2) academic semesters. The following

are examples of the reasons Management may cite to extend an employee's probationary period for an additional academic semester:

a. Performance or conduct related problem

b. Conformance with professional standards

(2) Deficiencies will normally be identified during mid probationary year review. If Management does elect to extend the probationary period, Management must provide a written probationary extension notification within the last thirty (30) calendar days prior to the end of the initial probationary period. If there is a probationary period extension, the extended probationary period will commence the effective date that the normal probationary period would have ended. Management will notify the employee in writing and will provide the employee an opportunity to annotate that he/she has received the notice. Refusal of the employee to acknowledge receipt of the notice does not negate the notice of extension.

(3) Upon request of the employee, a meeting will be held with management to discuss the reasons cited for the extension of the probation as well as to provide guidance.

B. Transfers: An employee who transfers within the duty station will not have to serve another probationary period. An employee who voluntarily transfers within the bargaining unit but outside the duty station, may serve a new probationary period of one academic semester unless the employee transfers to a position whose duties are comparable (e.g., a teacher to a teacher position).

Section 4. Contract Renewal/Non-Renewal

A. Employees will be notified in writing by management of their employment contract renewal/non-renewal not less than sixty (60) calendar days prior to the end of the contract. Deficiencies will normally be identified during mid-year review, for a non-renewal based on performance when those deficiencies are apparent prior to the review. The employee will be notified in writing of the projected level and step of the next year's contract no later than the last day of the current contract.

B. If non-renewal is for budget or program conditions, the procedures for reduction-in-force will be used. Non-renewal for cause or inadequate performance is grievable if the employee is not serving a probationary period.

(1) An employee whose contract is recommended for non-renewal will be given ten (10) work days to request an informal hearing before the appropriate official to appeal that recommendation. The employee may utilize union representation during this informal hearing. The appropriate Federal official has fifteen (15) work days to render a written decision to the employee. If the recommendation for non-renewal is sustained, the

employee will be given ten (10) work days to request subsequent review by the appropriate Associate Deputy Director of that determination.

- (2) The Union and/or the employee will be given an opportunity to provide all evidence and statements, as applicable, to the Associate Deputy Director either in person, by mail, or both. The associate Deputy Director will review the determination and sustain that decision or overturn it. The employee and/or the Union will be notified of that decision within fifteen (15) work days of the meeting, if requested, or receipt of the information if a meeting was not requested. Failure to render a decision within that timeframe will not overturn the prior determination.

Section 5. Temporary Position

Contract education employees will be moved to the pay level of temporary position within ten (10) work days of assuming the duties of the position, if it is a higher-level position, and the employee is qualified as determined by Management (post audited by Human Resources). The pay will be retroactive to the first day of the position.

Section 6. Vacation/Personal Leave

The use of earned leave and compensatory time shall be considered a right, rather than a privilege, subject to work restrictions and management approval. Leave will be pre-credited to employees who are to be employed more than twenty-four (24) weeks. Following are the types of leave available to contract education employees.

- A. Vacation Leave. Year-long employees earn and are granted vacation leave in accordance with 25 CFR 38 and 62 BIAM 11.62(D).
- B. School Vacation Leave. Contingent upon the school calendar, school-term employees may receive up to 136 hours (17 days) of school vacation. Approval for use of this leave will be administratively determined by management and shall be scheduled when school is not in session. Should work requirements demand that an employee is required to work during school vacation time, compensation shall be received at the base rate of pay or the employee may choose equivalent time off.

NOTE: Teachers, Home living Specialists and Counselors are not eligible for school vacation leave.

- C. Personal Leave. Personal leave applies only to School Term employees. Full-time employees with appointments receive forty-eight (48) hours of pre-credit personal leave. Full time employees hired with appointments of less than twenty-four (24) weeks will receive twenty-four (24) hours of pre-credit personal leave. Personal leave will be granted at the employee's request subject to Management approval. This leave will not necessarily be limited to non-instructional time. Management will make every attempt to accommodate the employee's request. Reason for denials will be written. Personal leave which has not been used by the end of an employee's contract period (end of school year contract) will be paid to the employee at

75% of the rate of pay which would have been payable to the employee during the last full pay period of that contract. Payment is only made for any personal leave credited to an employee at the beginning of that contract term. Personal leave may not be carried over from one contract term into another.

Section 7. Education Leave For Status Quo Education Employees

Education leave for Status Quo education employees is designed to improve the educational program of the Bureau. It is subject to determination and approval by Management, whenever funding permits. Education employees, listed in 44 BIAM 630, Subchapter 14, may apply for thirty (30) calendar days of education leave after serving one (1) school year or sixty (60) calendar days in alternate school years.

Section 8. Sick Leave

- A. General: Employees are expected to maintain their assigned schedule and must make every effort to avoid unscheduled absences. In addition, employees must provide acceptable evidence for absences when required. Employees normally shall not be required to furnish a medical certificate to substantiate a request for approval of sick leave unless such sick leave exceeds three (3) consecutive work days. Unscheduled absences are any absences from work that are not requested and approved in advance. Failure to avoid unscheduled absences and maintain a regular schedule may form the basis for disciplinary action and/or contract non-renewal.
- B. Sick Leave is earned by full-time employees at the rate of four (4) hours per pay period while in a pay status. Advanced leave and pre-credit leave is not authorized under the contract education leave system.
- C. Purpose: Sick Leave may be used to:
 - (1) Receive medical, dental, or optical examination or treatments;
 - (2) Address the employee's incapacitation due to physical or mental illness; injury, pregnancy, or childbirth;
 - (3) Provide for the care of a family member as a result of a serious health condition as defined in the regulations promulgated for application of the Family and Medical Leave Act (29 CFR 825) to contract education employees;
 - (4) Address the exposure to a communicable disease;
 - (5) Address the adoption of a child, including any necessary requirements to complete the adoption.
- D. Approval Process: Normally anticipated sick leave should be requested as far in advance as possible. In the event that the employee is compelled to request unanticipated sick leave, he/she should make every effort to notify his/her supervisor as soon as possible, and in no event, later

than one (1) hour from the start of the work day and every day thereafter. If circumstances prohibit immediate communications, as stated above, the employee will report his/her absence as soon as possible and may be required to submit appropriate documentation to substantiate their inability to timely report their absence. Unless the employee is on sick leave restriction, an immediate family member may report the absence.

- (1) Where applicable, teachers and bus drivers should make every effort to notify their supervisor one (1) hour prior to the start of the work day, and in no event, later than one (1) hour from the start of the work day.
 - (2) An appropriate call-in procedure will be established at the local sites to ensure that employees have a clear understanding as to their point of contact, the phone number(s) to call, and the specific manner to notify management of an inability to report for duty.
- E. Medical Restriction: Employees normally shall not be required to furnish a medical certificate to substantiate a request for approval of sick leave unless such sick leave exceeds three (3) consecutive work days. However, should the supervisor have reason to believe that the employee may be abusing sick leave, the employee may be placed under leave restrictions and be advised in writing that a medical certificate will be required for each absence chargeable to sick leave, including any leave type used in lieu of sick leave. After six (6) months the sick leave restriction will expire. Management may reinstate the requirement for cause.
- F. Eligibility: Contract employees earn sick leave. The rate of sick leave earned will be based on the type of contract, i.e. school year, yearlong, part-time permanent, full-time temporary. Intermittent employees do not earn sick leave.
- G. Re-credit of Sick Leave: Sick Leave which remains to the employee's credit at the time of separation or at the end of the contract year will be available for re-credit if the employee returns to a contract education position within three (3) years of separation. Sick leave will not be paid upon separation.
- H. Unused Sick Leave: Employees are not paid for unused sick leave upon separation.
- I. Sick Leave Substitution: Sick Leave may be substituted for Personal Leave *if an employee becomes ill during a pre-approved period of leave.*

Section 9. Sick Leave Donor Bank

- A. Leave sharing will be available for use by Contract Education employees. Sick leave may only be donated and used by Contract Education employees.
- B. Purpose. A Sick Leave Donor Bank will be established at each site where Contract Education employees are employed. Employees may donate sick leave into the bank at any time during the year. Sick leave may be donated in any amount up to 120 hours. Only employees who have depleted their sick leave hours are eligible to access sick leave hours from this bank. Sick leave

may not be donated to a specific employee; it is donated to the Bank and disbursed by the Committee in accordance with the procedures established for equitable distribution. Unused year end balances will be carried over from year to year.

- C. Committee. Within the first forty-five (45) work days of the school year, a three-member Sick Leave Donor Bank Committee will be established to include at least two Union representatives. Its authority does not extend beyond the boundaries of the site. Committees will function according to implementation procedures contained in appendix G. Committee responsibilities will include:
- (1) Establish internal decision-making procedures in accordance with appendix G;
 - (2) Review, approve and disapprove applications;
 - (3) Monitor the status of each recipient's injury or illness;
 - (4) Monitor leave in the bank and the number of applications received;
 - (5) Strive to maintain an adequate amount of sick leave in the bank to the extent possible;
 - (6) Maintain an accurate record of sick leave donations and distributions.
- D. Eligibility. For the purpose of this Section, an injury or illness is defined as long term if it incapacitates the employee for three (3) or more weeks.
- (1) Leave for Short Term (less than three weeks) Injury/Illness. Eligible employees will receive up to twenty (20) hours of sick leave during each six-month interval for non-long term injury or illness.
 - (2) Leave for Long Term Injury/Illness. Eligible employees will receive forty (40) hours of sick leave for every three weeks incapacitated due to a long term injury or illness.
 - (3) Sick Leave Bank for Maternity. Employees absent for normal maternity shall be eligible to receive forty (40) hours of sick leave upon exhaustion of sick, school vacation, and personal leave.
 - (4) Use. Leave will be available for withdrawal on a first come, first serve basis.
- E. Liaison. Management will be responsible for all liaison with servicing payroll and human resources officials.
- F. Annual Donation. A total of four (4) hours [2 hours are donated as administrative leave from management and 2 hours are donated from each employee's personal leave balance] of leave per year, per employee, per work site, to this bank to be used as indicated above. The leave will be

donated on the basis of the total employees employed at a worksite on the first day of the school term.

Section 10. Family and Medical Leave Act

- A. Contract employees are entitled to a total of twelve (12) administrative workweeks of unpaid leave during any 12-month period for the conditions specified in [29 CFR 825](#). The 12 month period is a rolling 12 month period beginning on the date on which an employee's FMLA leave first begins. A poster concerning rights and responsibilities under the FMLA is contained in [appendix H](#). Contract employees must meet the eligibility requirements specified in 29 CFR 825 and may take leave for the:
- (1) Birth of a child and care of a newborn;
 - (2) Adoption or foster care of a child;
 - (3) Care of a spouse, son, daughter, or parent with a serious health condition; and
 - (4) Serious health condition of the employee that makes the employee unable to perform his/her position. See also the fact sheet contained in [appendix I](#).
- B. Upon return from such leave, an employee must be returned to the same position or to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment. This leave is not in addition to personal, vacation, annual, leave without pay, and sick leave, but can be substituted with any combination of the aforementioned leave.
- (1) Definition of Family Members: Spouse (includes common law marriage in States where it is recognized); Son or daughter under 18 years of age or 18 years of age or older and incapable of self care due to mental/physical disabilities; biological, adopted, foster, step child or legal ward, or a child of a person who served as a surrogate parent (in loco parentis) when the employee was a child.
 - (2) Notice of Leave. An employee shall provide written medical certification to his or her immediate supervisor at least thirty (30) calendar days notice when the need for leave is foreseeable unless there is a reasonable excuse for the delay in notification. Medical documentation shall include: date the serious condition commenced; probable frequency and duration of periods of incapacity, and appropriate medical facts within the knowledge of the health care provider. This information should be submitted using the appropriate form contained in [appendix J \(for an employee's serious health condition\)](#) or [appendix K \(for the serious health condition of a family member\)](#) depending upon the circumstances surrounding the need for leave.
 - (3) Sick Leave for Adoption. Federal employees are entitled to use sick leave for purposes related to the adoption of a child.

- (4) Leave for Bone Marrow or Organ Donation. Federal employees are entitled to use seven (7) days of paid leave each calendar year (in addition to annual or sick leave) to serve as a bone-marrow donor and thirty (30) days each calendar year to serve as an organ donor.
- (5) Termination of a medical emergency occurs when the recipient's employment is terminated; the employee notifies the agency that the medical emergency is over; or when OPM approves the employee's disability retirement.
- (6) Military family leave.
 - a. Military caregiver leave permits eligible employees who are family members of covered service members up to 26 workweeks of leave in a "single 12-month period" to care for a covered service member with a serious illness or injury incurred in the line of duty on active duty. Documentation to support leave for this reason is submitted using the form in [appendix L](#).
 - b. Qualifying exigency leave makes the normal 12 workweeks of FMLA job-protected leave available to eligible employees with a covered military member serving in the National Guard or Reserves to use for "any qualifying exigency" arising out of the fact that a covered military member is on active duty or called to active duty status in support of a contingency operation. Qualifying exigency categories for which employees can use FMLA leave are documented using the form in [appendix M](#) and are as follows:
 - i. Short-notice deployment;
 - ii. Military events and related activities;
 - iii. Childcare and school activities;
 - iv. Financial and legal arrangements;
 - v. Counseling;
 - vi. Rest and recuperation;
 - vii. Post-deployment activities; and
 - viii. Additional activities not encompassed in the other categories, but agreed to by Management and employee.

Section 11. Military Leave

- A. Reserve members of the Armed Forces or members of the National Guard are entitled to leave without loss of pay, time, performance or efficiency rating for active duty or engaging in field or

coast defense training. Military leave may be granted for not more than fifteen (15) calendar days in any calendar year. Employees are requested to schedule their military leave at times other than when school is in session.

- B. Eligible Employees. School Year, Year Long Contract employees, Part-time (16-32 hours/week), and Temporary Indefinite Appointments. (Extensions of appointments exceeding one year do not qualify as meeting the one-year requirement; therefore, temporary employees are not eligible for military leave.)

- C. Military Leave will be granted in accordance with the provisions of 5 U.S.C. 5519 and 5 U.S.C. 6323. Detailed information about Military Leave may be found at the following URL:
<http://www.opm.gov>.

Section 12. Administrative Leave/Excused Absence

Administrative Leave may be granted when a school/activity shuts down due to circumstances beyond the Agency's control provided the employee is not already on scheduled leave. Administrative leave for emergency reasons shall not be approved for more than three (3) consecutive days per contract year. Such leave shall not reduce the minimum number of instructional days required by regulation, and when administrative leave has been approved, the instructional days may not be made up by lengthening the instructional day. Normally such days are made up by instructing on days scheduled as school vacation days or by adding extra days to the end of the school year for snow days.

Section 13. Leave Without Pay

- A. Leave without pay (LWOP) is a temporary non-pay status and absence from duty. Approval of LWOP will be granted if the manager deems the leave necessary based on the circumstances. This includes emergencies or other appropriate circumstances supporting the request other than those stated in "Approval Authority and Appropriate Uses."

- B. Approval Authority and Appropriate Uses. Authorizing LWOP is a matter of administrative discretion. LWOP requests will be examined in conjunction with the feasibility of granting other leave types for each individual case, as well as granting LWOP on an extended basis while waiting on a retirement or OWCP claim, but not to exceed one year. An employee is not entitled to LWOP unless the following situations exist:
 - (1) Disabled veterans in need of medical treatment;
 - (2) Guard and Reserve personnel performing active duty military service;
 - (3) Conditions meeting the Family & Medical Leave Act; or
 - (4) In receipt of compensation for an injury/illness incurred on the job.

Section 14. Pay Setting Practices

- A. Additional credit hours in education from an accredited institution can be submitted to the Human Resources Office to qualify the Employee for increases on the pay scale. Documents submitted by October 1st of the contract year will be credited as of the first day of the contract. Documents submitted after October 1st will be credited as of the date processed by the Human Resources Office.
- B. For any employee in a BIE school which is near one or more surrounding public school systems that pay a corresponding wage which is higher than the BIE school, Management will consider paying a post differential for those locations to equalize pay as compared to the local public school district, in accordance with 25 USC Section 2012(g)(2). If denied, an explanation will be provided to the employee and the Union.
- C. Within thirty (30) calendar days of the effective date of this agreement and prior to the beginning of each school year where there has been a significant increase or decrease in staffing (plus or minus 10%), the parties shall meet to review the attrition/retention statistics for each school, and other conditions of environment or work (such as geographic isolation or unusually difficult environmental working or living condition) that may warrant additional pay (post differential) authorized by 25 USC section 2012(g)2) as a recruitment and retention incentive.
- D. Before any rate of compensation or annual salary rate is established pursuant to 25 USC Section 2012(g)(2) that is lower than the rates that are payable under the Defense Department Overseas Teachers Pay and Personnel Practices Act, the Union will be given notice and an opportunity to bargain over said rates.
- E. No rate of compensation or annual salary rate for new hires established pursuant to 25 USC Section 2012(g)(C) that is lower than the rates that are payable under the Defense Department Overseas Teachers Pay and Personnel Practices Act shall be applied to employees who are already working at the school.
- F. In the event that the adoption of new rates of compensation or annual salary rates under 25 USC Section 2012(g)(C) leads to an increase in the payment of compensation above that which employees had been previously paid, such rates shall be made applicable in their entirety to employees already teaching at the school.
- G. Except for employees occupying positions of teachers and counselors, including dormitory counselors and homeliving counselors, adjustments in an employee's basic compensation made in connection with each contract renewal will be based on the following:
 - (1) Each employee with a minimum rating of Fully Successful on his/her Employee Performance Appraisal Plan whose contract is renewed shall receive one pay increment for longevity until he or she reaches the highest increment of his or her salary level; and

- (2) Employees whose performance is rated Superior will be considered for an additional salary increment or an award (as outlined in 370 DM 430) to reward performance and encourage continued performance; and
- (3) Employees whose performance is rated Exceptional shall receive one additional salary increment and serious consideration will be given to a second increment to reward performance and encourage continued performance.
- (4) Teachers who become certified by the National Board of Professional Teaching Standards or the National Council on Teacher Quality may receive an annual stipend up to twenty (20) percent of their base salary under the authority of 25 USC Section 2012(r).
- (5) The annual salary rate for those employees on a school year contract shall be based on 180 days of service. Employees shall be paid on a prorated basis (1/180 of annual salary) for any additional days of service in a school year.

Section 15. Stipends

- A. Stipends for extracurricular activities will be established jointly by Management and the Union Contact for the affected area and will be determined in the following manner:
 - (1) The three largest school districts in the area with schools having comparable enrollments will jointly be surveyed to determine schools with student populations in the categories named below. Such surveys will be conducted by mail or telephone at each area by a representative of Management and the Union by July 1 of each year. A simple arithmetic average, rounded up to the nearest dollar, will be made of the rates paid by the surveyed schools for each enrollment category as follows: 600 to 1,000; 300 to 599; 50 to 299. This average will be the scheduled stipend for the upcoming school year for all Bureau operated schools in the area. In those instances where less than three comparable schools, by size, are found, the next smaller school district will be surveyed until an average can be computed. If no comparable activities are found, i.e., Pow Wow Club, the stipend will be determined by arithmetic average of club stipends in the schools surveyed. This survey will divide athletics and non-athletics to arrive at separate schedules for each of these extracurricular activities.
 - (2) Any recognized extracurricular activity which consumes a minimum of twenty-five (25) hours per semester of time beyond an employee's tour of duty will be considered a stipend activity.
 - (3) Elementary and junior high stipends will be set at seventy (70) percent of high school stipends in each category of enrollment.
 - (4) Stipends for an activity will be advertised to the entire staff at the beginning of each new school year. Advertisement of activities may not be circumscribed by dollar limits. All

employees may, at their option, select overtime up to the dollar amount of the stipend. It will be entirely up to the employee's discretion.

- (5) All educators whether contract educators or status quo employees are eligible for stipends when performing additional activities outside the regular tour of duty.
- a. Stipends may be paid to any educator who performs additional activities outside of his/her regular tour of duty, which provides services to students or otherwise support the school's academic or social programs. Stipends may not be paid for these activities or services if they are carried out during the regular work day or tour of duty.
 - b. A stipend received by an education employee under this section is considered a fee for participating.
 - c. Those who are to receive a stipend may elect to receive the stipend in either of two ways:
 - i. In equal installments over the term of the stipend activity; or
 - ii. In a lump sum paid at the end of the pay period following the completion of the stipend activity.
 - d. Stipends must be established and approved by the school supervisor or Education Line Officer and the appropriate school board in advance of the stipend activity. All those who are to receive a stipend must submit the required election to his/her supervisor, who must forward the form to Human Resources for processing no later than the pay period preceding the start of the stipend activity.
 - e. Stipend schedules are established by the local school supervisor or Education Line Officer in consultation with the appropriate school board in accordance with Section 15A (1) through (4) above.

Section 16. Prompt Pay or Supplemental Pay

A. Management agrees to pay employees on designated paydays. All employees will receive pay by Electronic Funds Transfer (EFT), commonly referred to as Direct Deposit. Employees are responsible for reviewing their leave and earning statements and making timely notification to their supervisor of any unexplained discrepancy.

- (1) Any employee who does not receive their pay as scheduled is responsible for notifying their supervisor that they have not been paid. When an employee does not receive their pay as scheduled (within three work days), the employee will become eligible for supplemental pay.

- (2) Subsequent to receiving such notification, the supervisor, within eight (8) business hours, will make arrangements for supplemental pay and initiate action to determine the reasons for non-receipt. Employees are free to contact the BIE Human Resources Office directly when they do not receive pay on time.
- (3) Employees are responsible for making timely notification to the Human Resource Office or Employee Express of any changes in banking information.
- (4) Underpayment due to a Management error will follow the guidelines under this article, Section 2, Paragraph C.

Article 31

Education Activities

Section 1. Classroom Activities

- A. Teachers shall be afforded the right to maintain discipline in accordance with the policies of the student handbook established at the school.
- B. Any person at the school or on its grounds whose behavior is a threat to the safety and/or health of others will be reported to the appropriate supervisor. Management will take whatever steps are available to protect students and staff.
- C. Each school is by statute required to have a code of student conduct. This code of conduct should be developed by students' administrators, the Union, staff, and the appropriate school board and in the interest of all concerned should be strictly enforced by appropriate officials. The developed code will conform to all applicable laws and regulations.
- D. Management will make every attempt to schedule administrative meetings before or after the end of the students' instructional day.

Section 2. School Calendar

- A. The appropriate school administrators will furnish the Union national office and the local steward with the proposed school calendar for the next school year before submitting the calendar to the local school board. The Union will be afforded ten (10) work days to submit written comments if it chooses. Management agrees to give the Union's comments consideration; and, if comments are made, the Union will receive a written explanation for the actions that are taken, or not taken. Management and the School Board are recognized as having the final decision.
- B. For higher education, academic calendars will be submitted to the Union national office and local steward at the same time they are provided to the Board of Regents.
- C. For BIE schools within close proximity to public schools, efforts will be made for the BIE school calendar to coincide as nearly as possible with the local public school calendar.

Section 3. Formula Funding

The Bureau will consult with the Union concerning changes to the Indian School Equalization Formula used to fund Bureau schools under P. L. 95-561. The Union shall have an opportunity to make written comments. If the Union makes comments, the Bureau will give the Union a written explanation of actions taken that change the Formula. Management is recognized as having the final decision.

Section 4. School Boards

In accordance with 25 CFR 38.10(a): “School Boards may not direct, control, or interrupt the day-to-day activities of the Bureau of Indian Affairs employees carrying out Bureau operated education programs.” Management will grant official time for the Chief Steward or designee to attend both local school board meetings as an observer, when school board meetings are held during regular duty hours.

Section 5. Lunch Periods

- A. BIE supports a duty-free lunch period for employees. Teachers, education assistants, and counselors will normally not have assigned duties during their lunch period. In cases where duties must be assigned, employees will be compensated with compensatory time, overtime or a shortened work day (straight eight hours) at the employee’s discretion.

- B. When an employee is required to work through lunch while supervising or instructing students, lunch will be provided at no charge.

Section 6. Teaching Assignments

A person currently under contract or employed as a teacher who indicates in writing an intention to return to the same school for a succeeding year will be notified of the specific teaching assignment to the extent known at the time contracts are offered. Management will solicit the employee’s preference for a grade level assignment and subject matter, and should make an effort to accommodate that preference. Should a change in the assignment become necessary, the teacher will be informed as soon as Management determines a change is needed and given sufficient time, two week minimum unless there are unforeseen circumstances, for curriculum preparation. This section also applies to instructors in higher education.

Section 7. Inclement Weather Conditions

See Article 17 Section 10

Section 8. Interruptions

The Parties recognize classroom interruptions as detrimental to a good learning environment and the continuity of a well-planned classroom operation. Therefore, staff and administrators accept the joint responsibility to minimize such interruptions.

Section 9. Emergency Conditions

See Article 17, Section 10

Each school must maintain an Emergency Plan.

Section 10. Qualified Substitutes

- A. Management will make every effort to provide substitute teachers in accordance with 25 CFR Part 36. 11(a)(5), so that combining classes or supervising more than one class will be minimized.
- B. In instances of extended teacher absence, Management, where possible, should make teacher substitute assignments in advance in order to allow time for joint planning.
- C. Management will actively seek qualified teachers in order to avoid the utilization of substitutes on a long-term assignment in any given classroom. Management will strive to find substitutes who possess a high school diploma or equivalent.
- D. Education paraprofessionals are not considered classroom teachers. If a classroom has no teacher for three (3) consecutive work days or more the classroom assistant, if qualified, will be paid at the rate of a substitute if that pay is a higher rate.
- E. If an education assistant works as a teacher for three (3) consecutive work days or more, the education assistant will, if qualified, be compensated at the rate of a teacher with similar length of service.
- F. When a teacher is called to substitute during a preparation period, he/she will earn a time off award after being required to substitute in this manner three (3) times during each academic year (i.e., for every three classes of substitution during what would have been a preparation period, the teacher will earn a one hour time off award). The earned award must be used before the end of the academic year in which it was earned.

Section 11. Instructional Planning Time

The Parties recognize that sufficient time for student evaluation and good instructional planning is essential to the educational process. Supervisors will schedule planning periods during the instructional day as much as practicable, and the planning time will be meeting and duty free, based on school scheduling needs.

Section 12. Reporting Periods

Management will be cognizant of the workload associated with the end of each grading and reporting period, and in dealing with this issue, Management will provide sufficient time for teachers to compute and record grades, up to four (4) hours as determined at the local worksite. If Management changes a student's academic grade, a written explanation will be given to the teacher of that student.

Section 13. Student/Teacher Ratios

Each school is expected to adhere to the classroom student/teacher ratios outlined in the Bureau's Academic Standards guidelines pursuant to 25 CFR 36.11, and the national guidelines for comprehensive community colleges and four year baccalaureate granting institutions.

Section 14. Director's Staffing Differential

The responsible officer of any school unable to meet the Bureau Academic Standards by reason of lack of suitable, qualified professional personnel shall investigate and consider application for a Director's Staffing Differential of sufficient size to bring professional education salaries and benefits to a level comparable to the surrounding public school districts.

Section 15. Faculty Lounge and Facilities

- A. Management will make every effort to provide a teacher lounge and adult restrooms wherever these can be made available without new construction or major renovation.
- B. Education staff will be provided mailboxes for distribution of internal mail.
- C. Copying Machines will be made available for the production of lesson materials and execution of instructional duties.
- D. Where possible, and subject to budgetary constraints, a telephone with local access will be provided in the teachers' lounge.

Article 32

Reduction-in-Force (RIF)/Placement

Section 1. Policy

Through careful planning and use of other administrative techniques, to the extent it determines practicable and in the public interest, Management officials at all organizational levels should seek to avoid the necessity of entering into a formal reduction-in-force (RIF) action. Management will conduct a RIF only when the release is necessary for the reasons specified in Office of Personnel Management (OPM) regulations, 5 CFR, which includes lack of work, shortage of funds, insufficient personnel ceilings, reorganizations, reclassification due to a change in duties, or the exercise of reemployment rights or restoration rights. OPM regulations will be observed by Management and the Union in carrying out their responsibilities throughout the RIF process. The provisions of this Article will apply to all RIF or transfer of function actions affecting unit employees under 5 CFR.

Section 2. Procedure

- A. Union Notification. When it is anticipated that a transfer of function out of the commuting area or reduction in force affecting bargaining unit employee(s) will be necessary, the Union will be given preliminary notification in writing. This notification will be given within seven (7) work days of approval by Central Office, unless circumstances dictate otherwise, and will include the following:
- (1) The reason for the reduction in force or transfer of function as shown in the original request and approval;
 - (2) The approximate number of positions that may be affected initially;
 - (3) The competitive areas that may be involved in a reduction in force; and
 - (4) The anticipated effective date that the RIF or transfer of function will take effect; and
 - (5) Copy of agency internal RIF procedures (See Appendix N).
- B. Performance Ratings. At the time the Union receives its preliminary notification of an anticipated RIF, Management will provide the Union with a list of all employees covered by the notice whose current annual performance ratings of record are overdue, if performance ratings are a factor in the RIF.
- C. Union Contact. The Union will appoint a local contact at the level where the RIF will take place for the purpose of ensuring compliance with regulations. Prior to implementation of a RIF, the Union will receive a copy of such proposed action, including the reason for the RIF.

- D. Official Personnel Folder (OPF). Management will notify all affected employees of the importance of updating their OPFs. It is the responsibility of the employee to ensure that a current application or other appropriate documents are on file in his/her OPF which reflects all work experience, education and qualifications. The employee will also ensure that certificates, diplomas or other acceptable documents are included to support education claimed. [Note: While OPFs are in the physical custody of the employing agency, they are under the control of the OPM. The filing of documents in the OPF must be in compliance with 5 CFR Part 293, and the OPM Guide to Personnel Record Keeping Operating Manual.]
- E. Notification. When Management makes a decision to send out specific RIF notices, a list of affected employees will be sent to the Union including position, grade, location, series, and summary performance ratings for three (3) years. This list must be delivered to the Union five calendar days prior to delivery of notices to employees. In addition, the Union will be provided the following:
- (1) Vacancy announcements for all appropriate DOI jobs in the commuting area;
 - (2) A copy of the RIF approval if applicable;
 - (3) Copies of grade and pay retention law and regulations, if requested;
 - (4) Veteran's preference rights, including those veterans with a service-connected disability of 30% or more;
 - (5) Applicable retention registers that are, or become available to Management;
 - (6) Tentative positions to be abolished.
- F. Implementation. The following constitutes impact bargaining for all positions and precludes further negotiations unless the Union provides rationale acceptable to the Union President and Management that warrants further negotiation. Management will carry out the following actions to provide effective placement of personnel in the RIF and ensure re-promotion and reemployment rights where applicable under 5 CFR as follows
- (1) Review all of the following for the purposes of minimizing downgrades and separations:
 - a. Retirement of any employee in the commuting area;
 - b. Resignations, transfers, or other loss of employment in the competitive area;
 - c. Declination of job offers by employees in the competitive area;
 - d. Any other event which creates a vacant position at or below the current grade of an adversely affected employee for which he/she may qualify in the competitive area.

- (2) In accordance with Indian Preference, where it can be determined that an employee being separated fails to fully qualify for a vacant position but has demonstrated the specialty skills and abilities to perform the duties of that position in a satisfactory manner within 90 days, very serious consideration must be given to placing the employee in that position including waiving qualification requirements to the extent applicable.
- (3) Employees will be counseled to the extent practicable to determine if item F(2) above applies to them.
- (4) Management will consider to the extent possible:
 - a. Placing employees who received no valid job offer in their own competitive area in installations in other competitive areas;
 - b. Freeze appropriate vacancies in the commuting area.
 - c. Approve AWS for affected employees which meet their needs consistent with Agency mission during the RIF process.
 - d. After completion of the placement of permanent employees, Management will attempt to place temporary employees. Temporary employees will be considered for any remaining vacant positions. Management will adhere to 5 CFR, Departmental and Bureau regulations in all RIF actions involving temporary employees.
 - e. Management will consider, to the extent practicable, restructuring unfilled trainee positions to provide positions for journeymen employees who may adversely affected.
 - f. Employees who have been downgraded because of the RIF process will be considered for re-promotion in accordance with the provisions in Article 18.

G. RIF Competitive Areas. Management agrees to comply with the competitive areas as approved by the DOI.

Section 3. Authorized Official Time

- A. The local RIF contact will be permitted to travel and be accorded travel and per diem if appropriate to assist with a RIF covered by that Union. Use of Government owned/leased vehicles may be permitted if available, subject to approval by local Management.
- B. Affected employees will be permitted access to equipment, telephones, copy machines, word processors, typewriters, etc., necessary to prepare applications, resumes and related activities.

- C. Employees will have an opportunity on official time to be counseled by Human Resources Specialists who may travel to the location, concerning updating resumes or other appropriate documents, OPFs, retirement, conversion to Contract, placement programs and other matters prior to the effective date of the RIF. The Union shall be notified in advance of any such meetings.

Section 4. Placement

- A. Management agrees to participate in a placement program at each activity where a reduction in staff is occurring. This program will be designed to assist employees adversely affected by reorganization, RIF, and closure of facilities to seek employment. The primary aim of this program will be to assist each affected employee in obtaining a position in the Federal service, commensurate with the employee's skills, experience, and career goals. The secondary aim will be assisting to obtain a position in the non-Federal sector.

The paragraphs noted hereafter represent the full extent of the placement program agreed upon between the parties to this agreement - no other obligations are expressed or implied.

- B. Reemployment Priority Lists. **Reemployment Priority Lists apply only to Title 5 employees and do not apply to contract education employees.** To be eligible for reemployment priority list consideration, the employee must have separated through 5 CFR Part 351 (RIF) procedures. Employees separated through 5 CFR 752 (adverse action) procedures are not eligible for reemployment priority list placement.
- C. **The subsequent paragraphs, subparagraphs and clauses within this section apply only to contract education personnel.**

- (1) When specific RIF notices are issued to individual employees, Human Resources staff will be involved with the issuance of those notices. This involvement will include counseling each employee about the options available to that employee, i.e., the placement program, retirement, or any other options which may be available, including local or state unemployment services, as well as severance pay, and the estimated amount and duration of such payments, if applicable. During this counseling session, human resources staff will discuss with each employee any education, skills, licenses or certification that the employee may have which are not contained in the OPF and which may be relevant to positions in the Federal sector or general work force. It is the employee's responsibility to provide such certification, license, diploma and/or transcripts within a reasonable period of time following this counseling period, generally within thirty (30) calendar days unless extenuating circumstances are present and are communicated Human Resources in writing, (electronic mail will suffice for this purpose). The purpose of that discussion is to ensure that each employee may receive full consideration for all positions for which he/she may be qualified.
- (2) Management will offer to impacted employees commercially available training on preparing resumes and job interview skills.

- (3) Impacted employees who want to participate in this placement program will provide a completed resume or job application to Human Resources.
- a. Employees will identify to Human Resources, in writing using the document contained in Appendix O, the geographical areas at which they would desire to be employed. Employees may use this form to indicate desire to be considered at all geographic locations.
 - b. Human Resources will provide a list of current vacancies at the remaining BIE worksites where the employee has expressed an interest to each impacted employee and to the local Union contact for the RIF. An employee who has elected not to specify an interest in specific geographic locations and wishes to be considered for vacancies at all geographical locations will be provided with information for all vacancies within the Bureau.
 - c. Human Resources will submit information concerning employees separated by RIF to those BIE locations for which they have expressed interest in being employed. This information will include:
 - i. SF-50, Notification of Personnel Action, indicating separation;
 - ii. Resume or job application(s); and
 - iii. Any other qualifications, skills, licenses or certifications supplied by the employee to Human Resources personnel.
 - d. Information sent to locations at which employees have expressed interest in employment will be retained at those locations for one (1) year from separation. Impacted employees will be considered for each vacancy at those locations for which they are qualified.

Section 5. Personnel Files

The Union and Management will jointly encourage all employees desiring to participate in the program to see that their personnel files, resume and other appropriate documents are up-to-date. Management will add to the personnel files appropriate changes or amendments the employee submits for inclusion. Employees possessing skills in more than one area(s) may request consideration for vacancies in more than one area.

Section 6. Labor-Management Cooperation

The placement program will operate in the event of a RIF. Management and the Union will cooperate in assisting employees seeking placement.

- A. Management will provide a list of current vacancies at all remaining BIE schools to the Human Resources Office to include contact information.
- B. Regardless of the areas of consideration, all employees affected by a RIF will be eligible to apply for vacancies.
- C. At the request of the employee affected by the RIF, Management will forward notification of their RIF status to areas where vacancies exist.
- D. Management will utilize intranet and internet resources for posting all vacancies.
- E. In areas where a RIF is being conducted and electronic access is not available, vacancy announcements will be forwarded by mail.

Section 7. Eligibility

An employee adversely affected by a RIF will be eligible for the placement described herein.

Section 8. Duration

The placement program shall remain in effect for employees adversely affected by the RIF until such time as the employee has declined one valid offer or has been re-promoted or voluntarily separates from Federal service.

Article 33

Contracting Out Work

Section 1. Notice to Union

Management will notify the Union within thirty (30) calendar days of receipt of a “notice of intent” for entering into grants, contracts, compacts, or A-76.

Section 2. Notice to Tribes

Notice to the Tribes will contain a statement that includes the level of funding available for contracts or compacts. Management will include a statement in the notice that Management encourages the Tribes to maintain the current qualified workforce.

Section 3. Grant Funding

Grant funding is determined by formula.

Article 34

Negotiation and Supplementation

Section 1. General

Supplemental agreements to the Master Agreement may only be negotiated in accordance with the provisions of this Article. In order to maintain a constructive relationship, negotiations will be conducted in the most expeditious manner possible through the procedures of this Article. Supplemental agreements shall not duplicate, conflict with, or otherwise be inconsistent with the Master Agreement. When a conflict arises, that part of the supplemental agreement shall be null and void.

Section 2. Interest Based Bargaining

The parties agree to use the techniques of interest-based bargaining where appropriate.

Section 3. National Level Negotiations

- A. Except as provided in Section 4 below, Management shall furnish written notice of a proposed substantive change affecting conditions of employment to the Union President or designee. Such notice shall include the proposed implementation date or a reasonable estimate of the date with revisions as they are made. Notice shall be given the Union at least twenty-one (21) work days prior to implementation unless the Bureau is not given sufficient notice from higher authority to allow it to meet such time frames or, if, an exigency of the public business exists. The Union President or designee will have reasonable time to review the proposal. Telephone calls may be used to clarify or redefine issues or proposals. However, it is the parties' obligation to negotiate should the Union so request. Should the Union request negotiations upon the proposed change(s), the parties will meet in accordance with provisions of 5 USC, Chapter 71 and this Agreement.
- B. The Union will provide written proposals within ten (10) work days of the receipt or within ten (10) work days of the next Labor-Management Relations (LMR) meeting, whichever is appropriate, unless the parties mutually agree to extend these time frames. Negotiations may be held at other times and proposals will be provided at a mutually acceptable time to meet a Management need for expeditious implementation. The parties will negotiate for a period not to exceed 40 hours. The number of Union negotiators on travel and per diem and official time shall not exceed the number of Management negotiators on official time. If the issue(s) remain unresolved the parties shall use the services of a mediator. Should mediation fail to resolve the issue(s), final offers by each Party shall be submitted to the Federal Service Impasses Panel (FSIP). If Management determines that an exigency of the public business exists, the parties recognize Management's right to implement the change, but such change will be subject to the third party procedures.

Section 4. Bureau/Office Level Negotiation

Proposed changes in personnel policies, procedures and working conditions at only the Bureau or Office level (that is, Office of the Assistant Secretary for Indian Affairs, Office of Special Trustee for American Indians, BIE or BIA) will be furnished to the national Union office. Such notice shall include a proposed implementation date. If the Union elects to negotiate the parties will select a mutually acceptable time and place. The Union will provide formal written proposals within ten (10) work days of receipt of the proposed changes. The parties will negotiate for a period not to exceed 24 hours. If the issue(s) remain unresolved the parties shall use the services of a mediator. Should mediation fail to resolve the issue(s), final offers by each Party shall be submitted to the FSIP. If Management determines that an exigency of the public business exists, the parties recognize Management's right to implement the change, but such change will be subject to the third party procedures.

Section 5. Negotiations at the local Worksite

Changes in personnel policies, procedures and matters relating to the working conditions affecting only a local worksite will be furnished to the Union President and the local Chief Steward. Such notice shall include a proposed implementation date. The Chief Steward or designee will be given reasonable official time for review. If Management and the Union elect to negotiate the parties will select a mutually acceptable time and place. Notice shall be given as soon as possible to the Union, normally twenty-one (21) work days prior to implementation, unless the local activity is not given sufficient notice to meet such time frames or an exigency of public business exists. The Union will provide written proposals within fifteen (15) work days. Failure to submit proposals within the time period will waive the right of the Union to bargain on that issue(s). Within 10 work days of receipt of the Union proposals, the parties will meet to negotiate. The time frames may be altered by mutual agreement. The parties will negotiate for a period not to exceed 24 hours over six (6) consecutive work days. If issues remain unresolved the parties shall utilize a mediator. In no case shall time in mediation exceed the hour limitation of negotiations. If issues remain unresolved, the parties shall submit final offers within three (3) work days to the Bureau/Office Labor Relations Officer and the Union President or designee. The parties shall negotiate for a period not to exceed eight hours. Should the issues remain unresolved, the parties at the National level shall submit the above mentioned final offers to the FSIP within ten (10) work days. If management determines that an exigency of the public business exists, the change may be implemented but may be subject to third party procedures initiated by the Union.

Section 6. Local Supplements

A. The following matters have been negotiated at the National level and are not subject to negotiation at the local management level:

- (1) Article 1 - Recognition and Unit Description
- (2) Article 3 - Union Rights, Representation, and Official Time
- (3) Article 4 - Employee Rights
- (4) Article 5 - Management Rights
- (5) Article 6 - Voluntary Allotment of Union Dues
- (6) Article 9 - EEO and Sexual Harassment, except procedures and processes for implementing affirmative action and participating on EEO committees as per the Article.
- (7) Article 12 - Travel and Travel Related Expenses
- (8) Article 14 – Telework
- (9) Article 18 - Merit Promotion and Non-Competitive Promotions
- (10) Article 20 - Position Descriptions
- (11) Article 21 -Performance Standards and Evaluation
- (12) Article 22 - Actions Based On Unacceptable Performance
- (13) Article 23 - Discipline and Adverse Action
- (14) Article 24 – Alternative Dispute Resolution
- (15) Article 25 - Grievance Procedure
- (16) Article 26 – Arbitration
- (17) Article 28 - Motor Vehicle Operation
- (18) Article 30 - Education Personnel System
- (19) Article 31 - Education Activities
- (20) Article 32 - Reduction-In-Force (RIF) Placement

(21) Article 33 - Contracting Out of Work, except for appropriate arrangements for adversely affected employees as per Article 32.

(22) Article 34 - Negotiation and Supplementation

(23) Article 36 - Duration and Extent of Agreement

- B. When the Union indicates a decision to negotiate a supplement to the Master Agreement, it must submit written proposals to local Management level. A local supplement may be negotiated once during the term of the Master Agreement, provided that negotiations are initiated at least one (1) year prior to the third anniversary of this Master Agreement. Negotiations will occur as soon as possible after submission, normally within fifteen (15) work days. The Parties may inform the Federal Mediation and Conciliation Service (FMCS) of the dates of negotiations. The parties will negotiate for a period not to exceed 40 hours over six (6) consecutive work days. If the issues remain unresolved, the parties shall utilize the services of a mediator. In no case will mediation exceed the time allotted for negotiations. Should mediation fail to resolve the issue(s), final offers shall be submitted within three (3) work days to the Bureau/Office Labor Relations Officer and the Union President, or designee. The parties shall negotiate for a period of time not to exceed eight hours. If the issue(s) remain unresolved, the parties shall submit the final offers to FSIP within ten (10) work days.
- C. All supplemental agreements will be titled Supplemental Agreement to the Master Agreement between the Federation of Indian Service Employees, AFT, AFL-CIO and The Assistant Secretary – Indian Affairs, Bureau of Indian Affairs, Bureau of Indian Education, and Office of the Special Trustee for American Indians, located at (name of worksite). The supplemental agreement will become a part of the Master Agreement and subject to the terms and conditions of this Agreement. Supplemental agreements will not change the Master Agreement negotiated by the Union and Management. Supplemental agreements will expire on the same date as the Master Agreement. If negotiation on a new Master Agreement has not been requested the supplement agreements will remain in effect.

Section 7. Content of Notices

Notification of change(s) in policies, procedures, working conditions, and/or conditions of employment, should include a description of the change and proposed implementation date. It shall also include supporting documentation, such as:

- A. Organizational charts;
- B. Change in space assignments;
- C. Staffing patterns; or
- D. Other information when appropriate to the change.

Section 8. Approval of Supplemental Agreements

- A. National Level Supplements. When agreement has been reached on all issues, the supplement will be prepared in final form for signature by the parties. Upon receipt of the ratified supplement, the Union and Management will sign and date the document. Management will submit the document for Agency head review as provided by 5 USC, Chapter 71. Within 30 (thirty) days after execution, if the supplement is not acted upon, the supplement will become effective provided such supplement is consistent with law, rule, and regulation.
- B. Local Work Site Supplements. Upon completion of negotiations, the parties will sign off on the supplement. The date of execution of the supplement will be the date the last Management official signs off. Within three (3) work days of the date the supplement is executed, it will be forwarded to the Director, Office of Human Resources, for agency head review consistent with 5 USC, 7114(c) and applicable DOI policy. A copy will also be forwarded to Central Office. Six (6) signed and dated originals of each supplement will be sent to the Bureau/Office Labor Relations Officer.
- C. Supplemental agreements negotiated under this Agreement may be amended by mutual agreement of the parties at the National level.

Section 9. Past Practices

Practices or procedures that meet the following tests are considered past practice:

- A. They are known to Management;
- B. Those where the Manager responsible, knowingly acquiesces to the practice; and
- C. When such practice continues for some significant length of time.

Such past practices will remain in effect provided they are not contrary to law, government-wide regulations, management rights, and/or this Agreement.

Section 10. Negotiability

After exploring the issue in negotiations and after the Union has provided Management written clarification of the intent of its proposal(s) along with a request for a negotiability determination, Management will provide the Union with a written statement of its position of non-negotiability and its rationale for such claim within ten (10) work days. The Union may, within fifteen (15) work days of receipt of Management's statement, file an appeal with the FLRA.

Section 11. Exclusions for Current Wage Bargaining Worksites

Worksites which have historically negotiated prevailing rates of pay and other employment benefits prior to the passage of P.L. 92-392 will not be precluded by this Contract from continuing to do so as provided for in Section 704 of P.L. 95-454. Limitations on the official time as agreed in this Contract will not apply to this section on wage bargaining.

Section 12. Time Limits

Where time limits for negotiations have been specified, the parties intend that such time will be actual negotiations between the parties and that recesses and/or caucuses of over one hour shall not count toward the official time limit.

Article 35

Strikes and Picketing

It is recognized that by law and regulation the Union and members of the bargaining unit shall not call or engage in a strike, work stoppage, slowdown, picketing of an Agency in a labor-management dispute if such picketing interferes with the Agency's operations, or condone any such activity by failing to take affirmative action to prevent or stop it. However, Management recognizes the right of the Union to participate in informational picketing which does not interfere with Agency operations.

Article 36

Duration and Extent of Agreement

Section 1. Effective Date and Term

The effective date of this Agreement shall be the date it is approved by the Department of the Interior in accordance with 5 U.S.C. Chapter 71. It shall remain in full force and effect for three years and from year to year thereafter, unless between 105 and 60 calendar days prior to any such date either Party gives written notice to the other of its desire to amend or modify the Agreement. If such notice is given, this Agreement shall remain in effect until the changes have been negotiated and approved.

Section 2. Effective Date of Amendments and Supplements

Amendments and supplemental agreements shall become effective on the date approved by the appropriate official of the Department or thirty (30) days following execution if not disapproved.

The parties hereto executed this Master Labor-Management Agreement on September 7, 2011.

**For AS-IA, BIA, BIE
And OST
(Management):**

**For The Federation Of Indian Service
Employees (FISE) AFT/AFL-CIO
Local 4524 (Union):**

DEPARTMENTAL APPROVAL

OCTOBER 5, 2011
Date

DEFINITIONS

62 BIAM: Education Contract Personnel, Bureau of Indian Affairs Manual

25 CFR: Title 25 – Indians, Code of Federal Regulations

Academic term: is a division of an academic year, the time during which a school, college, or university holds classes. A semester system divides the academic year into two terms of relatively equal lengths. A trimester system divides the academic year into three terms of relatively equal lengths

Academic year (Higher Education): a twelve-month period established by a community college and approved by the Director of Education as the annual period for the operation of the college's education programs.

Academic Year (K – 12): the annual period of sessions of an educational institution usually beginning in September and ending in June.

Accreditation (education): educational accreditation is a type of quality assurance process under which services and operations of an educational institution or program are evaluated by an external body to determine if applicable standards are met. If standards are met, accredited status is granted by the agency.

Adverse action: removal, suspension of more than 14 days, reduction in grade or pay, or a furlough of 30 days or less for "such cause as will promote the efficiency of the service." Such actions are called Adverse Actions and are based upon misconduct, unacceptable performance, or a combination of both. They may also be based upon non-disciplinary reasons such as medical inability to perform or furlough.

AFT/AFL-CIO: American Federation of Teachers/American Federation of Labor - Congress of Industrial Organizations.

Alternative Dispute Resolution (ADR): consists of a variety of approaches to early intervention and dispute resolution. Many of these approaches include the use of a neutral individual such as a mediator who can assist disputing parties in resolving their disagreements. ADR increases the parties' opportunities to resolve disputes prior to or during the use of formal administrative procedures and litigation (which can be very costly and time-consuming).

Alternative Work Schedule (AWS): includes both flexible work schedules and compressed work schedules

Annual leave: earned time off used for vacations, rest and relaxation, and personal business or emergencies.

Appeal: a formal request to a higher authority requesting a change in or confirmation of a decision.

AQC: Agency Quarters Committee:

AS-IA: Assistant Secretary - Indian Affairs

Authorized representative: an individual or entity duly empowered to make decisions under a direct, clear, and specific delegation of authority

BHPR: Bureau of Health Professionals

BIA: Bureau of Indian Affairs

BIE: Bureau of Indian Education

Block Grant: block of official time used by Union employee representatives for all representation functions and training hours; does not include national negotiations or annual LMR meetings.

BUE: Bargaining Unit Employees

Calendar Days: all days in a month including weekends and holidays.

Callback pay: pay to an employee who has been dismissed after his/her normal tour of duty and is asked to return (called back) to work additional time before the next scheduled work period.

Career seasonal employees: employees that will work year after year but less than the 52 weeks of a calendar year

CBA: Collective Bargaining Agreement

CBR: Collective Bargaining Rights

CFR: United States Code of Federal Regulations

Chief Steward: union official who assists and guides shop stewards. The roles he or she plays within the union are determined by the union. The roles he or she plays in administering the contract are determined by the contract. For FISE, the Chief Steward is a member appointed by the Union President as the local point of contact, for Management and bargaining unit members, who is obligated to enforce the CBA, address members concerns, process grievances, and conduct local negotiations.

Compensatory time off: time off with pay in lieu of overtime pay for irregular or occasional overtime work, **or** when permitted under agency flexible work schedule programs, time off with pay in lieu of overtime pay for regularly scheduled or irregular or occasional overtime work.

Contract educator or Contract education employee: a bargaining unit employee employed within an education position as defined in 25 USC 2012(o).

Contract education position: any position which meets the definition for an education position as defined in 25 USC 2012(o).

COREPLUS: The CONflict RESolution PLUS system provides impartial and confidential assistance to any DOI employee seeking to improve or resolve a work place issue or concern. CORE PLUS is available to all employees and managers including bargaining unit employees, when the union elects to participate. CORE PLUS offers information and assistance on problem solving options. Assistance options include:

- Confidential consultation,
- Individual conflict coaching,
- Communication and conflict management training,
- Climate assessment,
- Group facilitation,
- Team-building, and
- Conciliation and mediation services.

CWS: Compressed Work Schedule: fixed work hours with a fixed starting time and ending time allowing employees to work their 80 hours in less than 10 days

DOI: Department of the Interior

EAP (Employee Assistance Program): program that offers assessment, short-term counseling, and referral services to DOI employees to help them deal with a wide range of drug, alcohol, and mental health problems. The EAP is intended to assist in the rehabilitation of employees with problems so they can lead happier lives and be productive workers. The EAP does not collect specimens for drug testing or verify test results. The EAP is confidential. EAP records and conversations between an EAP counselor and an employee are private. They do not become part of the official personnel record. Release of EAP records is generally prohibited without the employee's written permission. The EAP is available to all DOI employees, without regard to any finding of drug use; any employee may enter EAP counseling at any time. The EAP is also available to the family of an employee with a drug or alcohol problem.

EEO: Equal Employment Opportunity

Essential personnel: are those performing duties vital to national defense, public health and safety, or other crucial operations.

Exchange of information: parties have an obligation to share information which is relevant and necessary to the issues raised within the scope of the grievance; information exchange is normally done prior to the grievance meeting.

Exempt employees (for pay purposes): is one who is not covered by the minimum wage and overtime provisions of the Fair Labor Standards Act.

Family and Medical Leave (Act of 1993): most Federal employees are entitled to a total of up to 12 workweeks of unpaid leave during any 12-month period for the following purposes:

- the birth of a son or daughter of the employee and the care of such son or daughter;
- the placement of a son or daughter with the employee for adoption or foster care;
- the care of spouse, son, daughter, or parent of the employee who has a serious health condition;
- or
- a serious health condition of the employee that makes the employee unable to perform the essential functions of his or her positions.

Family Member (under FMLA): spouse, son, daughter, or parent of the employee

Family member (for sick leave purposes): includes the following relatives of the employee: (a) spouse and parents thereof; (b) children, including adopted children, and spouses thereof; (c) parents; (d) brothers and sisters, and spouses thereof; and (e) any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

FEPCEA: Federal Employee Part-time Career Employment Act

FISE: Federation of Indian Service Employees/Union, Local 4524

FISE Executive Counsel/Board: Seven member board elected to direct and manage FISE.

Flexitime: flexible arrival, departure and lunch periods with a specific core hours in each of the ten work days

FLRA: Federal Labor Relations Authority

FLSA: Federal Labor Standards Act

FMCS: Federal Mediation and Conciliation Service

FTR: Federal Travel Regulation

Furlough: placing of an employee in a temporary nonduty, nonpay status because of lack of work or funds, or other nondisciplinary reasons.

FWS (Flexible Work Schedule): consists of work days with (1) core hours and (2) flexible hours. Core hours are the designated period of the day when all employees must be at work. Flexible hours are the part of the work day when employees may (within limits or "bands") choose their time of arrival and departure.

Grievance: includes any complaint by any employee concerning any matter relating to the employment of the employee; by any labor organization concerning any matter relating to the employment of any employee; or by any employee labor organization, or agency concerning the effect or interpretation, or a claim of breach, of a collective bargaining agreement; or any claimed violation, misinterpretation, or

misapplication of any law, rule, or regulation affecting conditions of employment.

GSA: General Services Administration

HHS: Department of Health and Human Services

HRO: Human Resource Office

Intermittent employment: Intermittent work schedules may be established when the work of a less than full-time position is so sporadic and unpredictable that a tour of duty cannot be scheduled in advance. The hours when the employee's services are required constitute the hours of duty.

IP (Indian Preference): Indian Preference affords absolute hiring preference to qualified Indian individuals who are enrolled in a federally recognized tribe, are able to provide a valid "Verification of Indian Preference for Employment in the Bureau of Indian Affairs and Indian Health Service Only", form BIA-4432 and are suitable for Federal employment. Indian Preference is applicable when appointments are made to vacant positions, no matter how the vacancy arises. Indian Preference applies to the initial hiring, reassignment, transfer, competitive promotion, reappointment, reinstatement, or any personnel action intended to fill a vacancy.

Line Officer: have direct operational responsibility for accomplishing assigned missions and ensuring that activities under their authority are being performed in accordance with established laws, regulations, and policies.

LMR: Labor Management Relations

Local school board (i.e. a Bureau school): school board chosen in accordance with the laws of the Tribe or Alaska Native entity to be served or, in the absence of such laws, elected by the parents of the Indian children attending the school, except that in schools serving a substantial number of students from different Tribes or Alaska Native entities the members shall be appointed by the governing bodies of the Tribes and entities affected; and, the number of such members shall be determined by the Director in consultation with the affected Tribes and entities.

Management: The Assistant Secretary – Indian Affairs, Bureau of Indian Affairs Director, Bureau of Indian Education Director, and the Office of Special Trustee for American Indians, Special Trustee for American Indians and all respective designees for each office/bureau.

Maxiflex Work Schedule: Flexible arrival, departure and lunch times with specific core hours on at least three (3) days of the workweek. It is a type of flexible work schedule that contains core hours on fewer than 10 work days in the biweekly pay period and in which a full-time employee has a basic work requirement of 80 hours for the biweekly pay period, but in which an employee may vary the number of hours worked on a given work day or the number of hours each week within the limits established for the organization.

Minor disciplinary action: letter of reprimand or a suspension of 14 days or less

MRO: Medical Review Officer:

National level supplements: an agreement between the National union and Management that enhances or clarifies part(s) of the Master Agreement

National Office/National Union Office: FISE Albuquerque office

NGP: Negotiated grievance procedure

Nonexempt employees (for pay purposes): is one who is covered by the minimum wage and overtime provisions of the Fair Labor Standards Act.

Non-Renewal: an employment contract will not be offered for the next fiscal year

Official Personnel Folder (OPF): the OPF or its approved electronic equivalent is a file containing records that cover an individual's employment history. It covers Executive Branch service under Title 5, United States Code. The long-term records included in the file protect the legal and financial rights of the Government and the employee.

Official Time: time used by Union employee representatives for representation functions and training hours on official time; does not include national negotiations or annual LMR meetings.

Official Time Request Form: Form used to request official time.

OPM: Office of Personnel Management

OSHA: Occupational Safety and Health Act

OST: Office of the Special Trustee for American Indians

OWCP: Office of Workers Compensation Program

Past practices: an existing practice sanctioned by use and acceptance that is not specifically included in the collective bargaining agreement. For a past practice to be found, the following conditions must be present: (1) the practice must be a condition of employment; (2) which has been consistently practiced over an extended period of time; (3) with management's knowledge; and (4) the express or implied consent of responsible management.

PD (Position Description): briefly describes the key or major duties and responsibilities of a position or a number of positions. The primary use of PDs is for classification and pay purposes. However, a PD also serves as the basis for preparing an employee's performance plan/objectives, preparing a formal training plan, or reviewing and evaluating employees' current or prior work experience.

Per Diem: a sum of money paid or given to an employee to cover daily expenses while on official travel.

PIP (Performance Improvement Plan): informs the employee in writing of the critical element(s) in which he or she is failing, what is needed to bring performance up to a minimally successful level, what assistance will be provided, and the consequences of failing to improve during the opportunity period.

Probationary period: an employee must serve a probationary period during the first year of his/her initial permanent Federal appointment to determine fitness for continued employment. An Agency may terminate the services of an employee if his/her work performance or conduct fails to demonstrate his/her fitness or qualifications for continued employment during the initial one-year probationary period. A probationary employee, whose performance and/or conduct are unsatisfactory, may be removed at any time during the probationary period. The supervisor does not have to wait until the end of the probationary period to initiate action.

RIF: a reduction-in-force (RIF) situation exists when the agency releases a competitive employee from his/her competitive level by furlough for more than 30 days, separation, demotion, or reassignment requiring displacement of another employee. Releasing the employee must be caused by lack of work; shortage of funds; insufficient personnel ceiling; reorganization; the exercise of reemployment or restoration, or return rights; or reclassification of an employee's position due to erosion of duties when such action will take effect after the agency has formally announced a RIF and the RIF will take effect within 180 days.

SHC: School Housing Committee

Steward: Union representative to whom the union assigns various representational functions, such as investigating and processing grievances and representing the union at various meetings, such as formal discussion [§ 7114(a)(2)(A)] and Weingarten meetings [§7114(a)(2)(B)]. For FISE, the Steward is an elected member obligated to enforce the CBA, addressing members concerns, processing grievances at the work site level.

Supplemental agreement: agreements at the local level between the union and management, which are not disallowed or contradicted by this current Master Agreement

Supplemental pay: monies that are made available to employees when they do not receive their direct deposit as scheduled (within three days)

Union: FISE

Voluntary Dues: employee dues assignments must be voluntary (no union or agency shop arrangements permitted under the Federal Service Labor-Management Relations Statute) and may not be revoked except at yearly intervals, but must be terminated when the agreement ceases to be applicable to the employee (as when the employee is temporarily promoted to a supervisory position or is detailed outside the unit, or when the employee is expelled from membership in the union).

Work Days: days that a Department is open for regular business, normally 8:30 a.m. to 5:00 p.m.

APPENDIX A

UNIT DEFINITION

Unit Definition

Ref: Case Nos. WA-RP-02-0058 (March 31, 2003); Case No. WA-RP-80095 (March 23, 2000); Case No. WA-RP-08-0087 (April 28, 2009)

OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS

Included: All professional and nonprofessional employees employed by the Office of the Special Trustee for American Indians, U.S. Department of the Interior nationwide.

Excluded: All management officials, supervisors and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

INDIAN AFFAIRS

Central Office:

All professional and nonprofessional employees of the Bureau of Indian Affairs Central Office located at Washington, D.C., Reston, Virginia, and Albuquerque, New Mexico; excluding managerial officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and nonprofessional employees of the Bureau of Indian Affairs operated schools under the Office of Indian Education Programs, including security guards; excluding temporary employees of less than ninety (90) days, management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and nonprofessional employees assigned to the Assistant Secretary of Indian Affairs (AS-IA); excluding management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

Alaska:

All professional and nonprofessional employees of the Alaska Region, Bureau of Indian Affairs, Alaska; excluding management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and nonprofessional employees of the Bureau of Indian Affairs, Anchorage Education Field Office; excluding management officials: supervisors; and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

Arizona/Navajo Region:

All professional and nonprofessional employees of the Navajo Region, Bureau of Indian Affairs, including the position of Business Technician, CE-0301-02/21; excluding management officials, supervisors, temporary employees, 1710 series personnel, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All nonprofessional and professional employees of the Pima Agency, Sacaton, Arizona; excluding managers, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All nonprofessional and professional employees of the Hopi Agency, Keams Canyon, Arizona; excluding managers, supervisors, employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All law enforcement personnel of the Hopi Agency, Keams Canyon, Arizona; excluding all management officials, supervisors and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All non-professional and professional employees of the Fort Apache Agency, Whiteriver, Arizona; excluding supervisors, managers, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and nonprofessional employees of the Western Regional Office, Bureau of Indian Affairs, Phoenix, Arizona; excluding supervisors, managers, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and nonprofessional employees of the Colorado River Agency, Parker, Arizona; excluding supervisors, managers, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and nonprofessional employees of the Papago Agency, Bureau of Indian Affairs, Sells, Arizona; excluding management officials, supervisors, employees with appointments of ninety (90) days or less, and employees described in 5 U.S.C. 7112(b)(2)(3)(4)(6)and (7).

All nonprofessional employees of the San Carlos Irrigation Project, Coolidge, Arizona; excluding management officials, Wage Grade employees of the Power Division, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All nonprofessional employees of the San Carlos Agency, Bureau of Indian Affairs, San Carlos, Arizona; excluding professional employees, management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and nonprofessional employees, including law enforcement personnel, of the Truxton Canon and Supai Agency, Valentine, Arizona; excluding all management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

California:

All professional and nonprofessional employees of the Pacific Regional Office and the central California Agency, Sacramento, California; excluding management officials, supervisors, temporary employees with appointments of 90 days or less, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and nonprofessional employees of the Bureau of Indian Affairs, Northern California Agency, Redding, California; excluding management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and nonprofessional employees of the Southern California Agency, Riverside California; excluding management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

Idaho:

All professional and nonprofessional employees of the Northern Idaho Agency, Lapwai, Idaho, and the Coeur D'Alene Tribe B1A Field office, Plummer, Idaho; excluding management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and non-professional employees of the Fort Hall Agency, Fort Hall, Idaho; excluding all management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2),(3),(4),(6) and (7).

Kansas:

All nonprofessional employees of the Horton Agency, Bureau of Indian Affairs, Horton, Kansas; excluding supervisors, management officials, professional employees, temporary employees and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

Minnesota:

All professional and nonprofessional employees of the Minnesota Agency, Minnesota; excluding supervisors, management officials, temporary employees, and employees described in 6 use 7112(b)(2)(3)(4)(6) and (7).

All professional and nonprofessional employees employed by the Bureau of Indian Affairs, Midwest Regional Office, Minneapolis, Minnesota; excluding all supervisors, managers, and employers described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

Mississippi:

All professional and nonprofessional employees, including temporary employees, of the Choctaw Agency, Philadelphia, Mississippi; excluding, management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

Montana:

All full-time nonprofessional employees of the Bureau of Indian Affairs, Fort Peck Agency, Poplar, Montana; excluding supervisors, management officials, professional employees, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All nonprofessional employees of the Crow Agency, Montana; excluding managers, supervisors, professionals, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and nonprofessional employees of the Blackfeet Indian Agency, Browning, Montana; excluding all supervisory and managerial personnel, temporary employees who have worked less than 20 pay periods, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All nonprofessional and professional employees of the Flathead Irrigation Project, Polson, Montana; excluding managers, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All full-time nonprofessional general schedule employees of the Bureau of Indian Affairs, Rocky Mountain Regional Office, Billings, Montana; excluding supervisors, managers, professional employees and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All nonprofessional employees of the Northern Cheyenne Agency, Lame Deer, Montana; excluding managerial officials, supervisors, professionals, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

Added to

Included: All professional employees of the Bureau of Indian Affairs Fort Belknap Agency, Harlem, Montana; Crow Agency, Crow Agency, Montana; Wind River Agency, Fort Washakie; Wyoming; Northern Cheyenne Agency, Lame Deer, Montana; Fort Peck Agency, Poplar, Montana; and Rocky Mountain Regional Office, Billings, Montana; and all nonprofessional employees of the Bureau of Indian Affairs Fort Belknap Agency, Harlem, Montana.

Excluded: All management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7). [DE-RP-01-0041; 11/16/2001]

Nebraska:

All professional and nonprofessional employees of the Bureau of Indian Affairs, Winnebago Agency, Winnebago, Nebraska; excluding all management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

Nevada:

All nonprofessional employees of the Western Nevada Agency, Carson City, NV, Bureau of Indian Affairs, excluding professional employees, management officials, supervisors and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

New Mexico:

All nonprofessional employees of the Mescalero Agency, Albuquerque, New Mexico; excluding professional employees, supervisors, managers, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All law enforcement personnel of the Branch of the Law Enforcement Services, Mescalero, New Mexico; excluding management officials) professional employees, supervisors and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All full-time and temporary professional and nonprofessional employees of the Jicarilla Apache Agency, Dulce, New Mexico; excluding management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and nonprofessional employees of the Southwestern Regional Office, Albuquerque, New Mexico; excluding management officials, supervisors, employees currently covered under existing exclusive recognition) temporary employees with appointments of 90 days or less, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and nonprofessional employees of the Facility Management and Construction Service Center, Albuquerque, New Mexico; excluding supervisors, management officials and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and nonprofessional employees of the Northern Pueblos Agency, San Juan Pueblo, New Mexico; excluding all supervisors, management officials and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and non-professional Wage Grade and General Schedule employees of the Bureau of Indians Affairs, Laguna Agency, Laguna, New Mexico; excluding management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

Added to

Included: All professional and non-professional employees who are not currently represented in any unit, including all temporary and part-time employees, of the Bureau of Indian Affairs, Southern Pueblos Agency, Albuquerque, New Mexico.

Excluded: All management Officials, supervisors, and currently represented employees of the Bureau of Indian Affairs, Southern Pueblos Agency, Albuquerque, New Mexico, and employees described in 5 U.S.C. §7112(b)(2), (3), (4), (6) and (7).

[DA-RP-01-0031; 2/27/2002]

North Carolina:

All professional and nonprofessional employees of the Cherokee Indian Agency, Cherokee and Snowbird, North Carolina; excluding all management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

North Dakota:

All professional and nonprofessional employees of the Fort Totten Agency, Fort Totten, North Dakota; excluding management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All full-time professional and nonprofessional employees of Fort Berthold Agency, Bureau of Indian Affairs, New Town, North Dakota; excluding, management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All full-time nonprofessional and professional employees of the Bureau of Indian Affairs, Standing Rock Agency, Fort Yates, North Dakota; excluding management officials, supervisors, and employees described in 5 use 7112 (b)(2)(3)(4)(6) and (7).

All professional and nonprofessional employees employed by the Bureau of Indian Affairs, Turtle Mountain Agency, Belcourt, North Dakota; excluding management officials, supervisors, and employees described In 5 use 7112 (b)(2)(3)(4)(6) and (7).

Oklahoma:

All professional and nonprofessional employees of the Pawnee Indian Agency, Oklahoma, excluding management officials; supervisors, temporary employees and employees described in 5 U.S. C. 7112 (b)(2)(3)(4)(6) and (7).

All professional and nonprofessional employees of the Concho Agency, Oklahoma; excluding management officials, supervisors, temporary employees and employees described in 5 U.S. C. 7112 (b)(2)(3)(4)(6) and (7).

All professional and nonprofessional employees of the Southern Plains Regional Office, Anadarko, Oklahoma, Anadarko Agency, Oklahoma, and Oklahoma Education Office; excluding management officials, supervisors, temporary employees with appointments of 90 days or less, and employees described in 5 use 7112(b)(2)(3)(4)(6) and(7).

All professional and nonprofessional employees of the Eastern Oklahoma Regional Office, Muskogee Oklahoma, Okmulgee Field Office, Okmulgee, OK, Talihina Agency, Talihina, Oklahoma, Wewoka Agency, Wewoka, Oklahoma, and Osage Agency, Pawhuska, Oklahoma; excluding management officials, supervisors, temporary employees and employees described in 5 U.S.C. 7112(b)(2)(3)(4)(6) and(7).

Added to

Included: All non-supervisory, non-professional employees who are not currently

represented, including a/1 temporary and part-time employees, of the Bureau of Indian Affairs, Department of the Interior, Chickasaw Agency, Ada, Oklahoma, not currently represented in any unit.

Excluded: All management officials, supervisors, and currently represented employees described in 5 U.S.C. 7112(b)(2),(3),(4),(6) and (7). [OA-RP-02-0036; 5/15/2002]

Added to

Include:

All non-supervisory, non-professional employees who are not currently represented, including all-temporary and part-time employees, of the Bureau of Indian Affairs, Department of the Interior, Miami Field Office, Miami, Oklahoma, not currently represented in any unit.

Excluded: All management officials, supervisors, and currently represented employees described in 5 U.S.C. 7112(b)(2),(3),(4),(6) and (7). [DA-RP-02-0037; 5/15/2002]

Oregon:

All professional and nonprofessional employees of the Bureau of Indian Affairs, Warm Springs Agency, Warm Springs, Oregon; excluding management officials; supervisors; employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6), and (7); and so-dav special need employees.

All professional and nonprofessional employees of the Northwestern Regional Office, Bureau of Indian Affairs, Portland, Oregon; excluding supervisors, management officials, temporary employees, and employees described in 5 use 7112(b)(2)(3)(4)(6)and (7).

South Dakota:

All professional and nonprofessional employees of the Pine Ridge Agency, Bureau of Indian Affairs, South Dakota; excluding management officials, supervisors, and employees described in 5 use 7112 (b)(2)(3)(4)(6) and (7).

All employees of Rosebud Agency, Bureau of Indian Affairs, Rosebud, South Dakota; excluding professional employees, management officials, supervisors, employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All permanent nonprofessional law enforcement personnel of the Rosebud Agency, Rosebud, South Dakota; excluding supervisors; management officials; professional employees; temporary employees with appointments of 90 days or less; and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and nonprofessional employees of the Sisseton Agency, Bureau of Indian Affairs, Sisseton, South Dakota; excluding all management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and nonprofessional employees of the Bureau of Indian Affairs, Cheyenne River Agency, Eagle Butte, South Dakota; excluding management officials, supervisors and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All nonprofessional and professional employees of the Bureau of Indian Affairs, Lower Brule Agency, Lower Brule, South Dakota; excluding all management Officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All employees of the Crow Creek Agency of the Bureau of Indian Affairs, Ft. Thompson, South Dakota; excluding all supervisors, management officials and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and nonprofessional employees of the Great Plains Regional Office, Aberdeen, South Dakota; excluding supervisors, management officials, temporary employees and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All non-supervisory, professional employees, and non-professional employees of the Department of the Interior, Bureau of Indian Affairs, Yankton Sioux Agency, Wagner, South Dakota; excluding management officials, supervisors and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

Tennessee:

All professional and nonprofessional employees of the Eastern Regional Office, Nashville, Tennessee; excluding managerial officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

Utah:

All professional and nonprofessional employees of the Uintah and Ouray Agency, Fort Duschesne, Utah; excluding supervisors, managers, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All law enforcement personnel of the SIA, Uintah and Ouray Agency, Fort Duschesne, Utah; excluding all management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

Washington:

All hourly wage and annual wage employees of the Wapato Irrigation Projects, Wapato, Washington; excluding supervisors, management officials, temporary employees and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All professional and nonprofessional employees of the Yakama Agency, Toppenish, Washington; excluding management officials, supervisors, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

Wisconsin:

All nonprofessional employees of the Great Lakes Agency, Bureau of Indian Affairs, Ashland, Wisconsin; excluding all supervisors, managerial officials, professional employees, temporary employees, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

Wyoming:

All nonprofessional employees of the Wind River Agency, Fort Washakie, Wyoming; excluding supervisors, professionals, managers, and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

All nonprofessional law enforcement personnel of the Wind River Agency, Fort Washakie, Wyoming; excluding supervisors; management officials; professionals and employees described in 5 U.S.C. 7112(b)(2), (3), (4), (6) and (7).

APPENDIX B

**UNION OFFICIAL TIME
REQUEST/APPROVAL FORM**

UNION OFFICIAL TIME REQUEST/APPROVAL FORM

Union Representative's Name

Date

I request permission to leave my worksite for the purpose stated below:

Purpose of representational activity:

_____ Union Initiated

_____ Estimated Time

_____ Management Initiated

_____ Employee Initiated

_____ Actual Time Used

_____ Request Approved

_____ Request Disapproved

Reasons for Disapproval:

Supervisor's Signature

Date

Union Representative's Signature

Date

NOTE: A copy of this form must be given to the Union Representative at the time of Approval/Disapproval.

APPENDIX C

WEINGARTEN RIGHTS

Weingarten Rights

5 United States Code 7114(a) states that:

An exclusive representative of an appropriate unit in an agency shall be given the opportunity to be represented at any examination of an employee in the unit by a representative of the agency in connection with an investigation if –

the employee reasonably believes that the examination may result in disciplinary action against the employee; and the employee requests representation.”

The annual notification will state:

In accordance with 5 USC 7114 (a)(3), employees are hereby informed of their right to representation during investigatory proceedings. Specifically, 5 USC 7112(a) states, in pertinent part, that an exclusive representative shall be given the opportunity to be present at any examination of an employee in the unit by a representative of the agency in connection with an investigation if (1) the employee reasonably believes that the examination may result in disciplinary action against the employee; and (2) the employee requests union representation. This notice meets the requirements of 5 USC 7114 which requires annual notice to employees of their rights under the Federal Service Labor Management Relations Statute. Questions regarding this notice should be directed to your Employee and Labor Relations Specialist.

APPENDIX D

DOUGLAS FACTORS

Douglas Factors

Factors to consider in selecting appropriate penalty for misconduct from the Merit Systems Protection Board case: *Douglas v. Veteran's Administration*, 5 MSPR 280 (1981).

1. The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, include whether the offense was intentional or technical or inadvertent, or as committed maliciously or for gain, or was frequently repeated;
2. The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
3. The employee's past disciplinary record;
4. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
5. The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's ability to perform assigned duties;
6. The consistency of the penalty with those imposed upon other employees for the same or similar offenses;
7. The consistency of the penalty with any applicable agency table of penalties.
8. The notoriety of the offense or its impact upon the reputation of the agency;
9. The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
10. The potential for the employee's rehabilitation;
11. The mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of the others involved in the matter, and
12. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

APPENDIX E

GRIEVANCE WORKSHEET

Grievance Worksheet

STEWARD OR UNION REPRESENTATIVE: _____

UNION GRIEVANCE NUMBER: _____

DATE OF APPEAL: _____

GRIEVANT'S NAME AND DUTY LOCATION		
WORKSITE ADDRESS	CITY & STATE	ZIP
JOB TITLE/SERIES/LEVEL:	SERVICE COMP DATE:	
REGIONAL or LINE OFFICE:	CITY & STATE	ZIP
PAST DISCIPLINARY RECORD (IF RELEVANT)		
VIOLATION OR RELEVANT ALLEGATIONS (ARTICLE & SECTION OF CBA OR REGULATION):		
FACTS OF GRIEVANCE & DATES:	TIME:	LOCATION:
WHAT HAPPENED:		

IF DENIED, REASON GIVEN:		
ATTACHMENTS: __ WITNESS(ES) STATEMENTS	__ NOTES OR DOCUMENTATION OF STEP 1	__ OTHER (LIST)

APPENDIX F

**SAMPLE ARBITRATOR
NOTIFICATION LETTER**

[insert date]

Arbitrator Name
Address Line 1
Address Line 2
City, State, Zip Code

RE: U.S. Department of the Interior, [insert Bureau/Office Name and location] and the Federation of Indian Service Employees (Local 4524, AFT, AFL-CIO) [insert Grievant's name]

Dear [insert Arbitrator's name]:

The captioned parties have selected you from our panel of permanent arbitrators to arbitrate a grievance regarding [insert short synopsis of grievance subject matter].

The union will be represented by:
[insert name and address of union representative]

The Agency will be represented by:
[insert name and address of agency representative]

Please advise the representatives named above of the dates on which you would be available for a hearing in [insert location] on this matter.

Very truly yours,

[insert name, address, telephone number, and e-mail address for appropriate union official/representative for signature]

[insert name address, telephone number and e-mail address for appropriate Human Resources Labor Relations official]

cc: {as appropriate}

APPENDIX G

**LEAVE BANK PROGRAM
FOR CONTRACT EDUCATION EMPLOYEES**

APPENDIX H

**EMPLOYEE RIGHTS AND
RESPONSIBILITIES UNDER
THE FAMILY AND MEDICAL LEAVE ACT**

APPENDIX I

DEPARTMENT OF LABOR FACT SHEET #28: THE FAMILY AND MEDICAL LEAVE ACT of 1993

APPENDIX J

**CERTIFICATION OF HEALTH CARE PROVIDER
FOR EMPLOYEE'S SERIOUS HEALTH CONDITION
(FMLA) FORM WH-380-E**

APPENDIX K

**CERTIFICATION OF HEALTH CARE PROVIDER
FOR FAMILY MEMBER'S SERIOUS HEALTH
CONDITION (FMLA) FORM WH-380-F**

APPENDIX L

**CERTIFICATION FOR SERIOUS INJURY OR
ILLNESS OF COVERED SERVICE MEMBER FOR
MILITARY FAMILY LEAVE (FMLA)
FORM WH-385**

APPENDIX M

**CERTIFICATION OF QUALIFYING EXIGENCY FOR
MILITARY FAMILY LEAVE (FMLA)
FORM WH-384**

APPENDIX N

REDUCTION IN FORCE PROCEDURES

Managerial reduction-in-force (RIF) checklist

Request for RIF memorandum

____ Reason(s) for RIF clearly identified, i.e., due to lack of work, shortage of funds and/or reorganization. Manager certifies that the reasons for the RIF are supported by documentation and evidence.

____ Information is attached reflecting what administrative techniques and efforts were undertaken as RIF avoidance measures, these may include such things as: cancellation or reduction in travel, administrative cost restriction e.g., additional oversight or elimination, overtime elimination or restriction, position management efforts, etc.

____ Abolished positions identified, i.e., series, pay level, position number and whether encumbered or vacant.

Organizational charts

____ All position numbers are identified on "old" organizational chart.

____ Position numbers on organizational charts match the position numbers on the RIF request letter and official personnel folder of the affected employee.

____ 2 organizational charts are attached (old and new).

____ Organizational charts have the required signatures.

BIE ONLY

____ If the RIF is not scheduled to coincide as nearly as possible with the end of the school year, evidence/rationale for effecting the RIF on the date specified is attached for review.

____ All required signatures are on the memorandum request, i.e., Principal, ELO, ADD and school board.

School Board minutes

____ School Board minutes identify the reason(s) for the RIF.

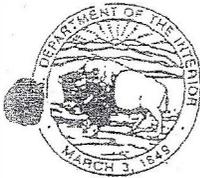
____ Minutes clearly identify the number of school board members that concurred with or did not concur with the RIF and, if applicable, the number who abstained from voting or were absent.

APPENDIX O

**REDUCTION IN FORCE PLACEMENT ASSISTANCE
REQUEST FORM & DOI RE-EMPLOYMENT
PRIORITY LIST APPLICATION FORM**

APPENDIX P

**SUSPECTED CHILD ABUSE & NEGLECT
(SCAN) INFORMATION**



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20245



Rec'd
Dkt
in
Re
L
20

IN REPLY REFER TO:

Personnel Management 2

JUN 5 1992

Memorandum

To: Aberdeen Area Office
Anadarko Area Office
Navajo Area Office
Phoenix Area Office
Portland Area Office
Attn: Personnel Officers

From: ACTING Director, Office of Management and Administration

Subject: Notification of the BIA/NFFE Sick Leave Bank Program Existence

The Sick Leave Bank Program is in existence as of date of this memorandum.

In accordance with the negotiated supplemental agreement of the Implementation Procedures for the Sick Leave Bank Program dated August 30, 1991, Section (N), Notification, states in part that:

"Management will inform bargaining unit contract education employees on a one time basis that the sick leave bank is in existence."

The supplemental agreement was approved by the Director of Personnel on October 24, 1991. The published implementation procedures for the sick leave bank and the software program for tracking the sick leave bank program were developed and reviewed by the NFFE union and the OIEP representatives for distribution.

Each Area Office will receive copies of the sick leave bank implementation procedures and a copy of the computer sick leave bank program. The number of copies sent to each Area Office were based on the estimated need for distribution. Please note that the copies of the procedures are available in limited quantities. This is due to the expense of publication and the projected need by the applicable parties. Therefore, copies of the implementation procedures should be distributed on an as needed basis. If certain sections are needed by an employee (i.e. Donor Application), those sections should be copied and provided.

The attached computer sick leave bank program should be copied or a "backup disk" made in case of a computer operating accident. Keep the "backup disk" in a safe place. The Area Offices will make copies of the computer program as needed for site distribution.

Attached also is a Memorandum that may be used to notify the bargaining unit contract education employees that the sick leave bank is in existence. To preclude any prospective donor from forfeiting excess sick leave that may otherwise be donated, this notification or one similar to it should be circulated immediately.

If you have any question regarding contract provisions or implementation procedures, please contact [REDACTED] on FTS/Commercial (202) 208-2540. If you have questions regarding the computer program, contact Mr. [REDACTED] on FTS/Commercial (202) 208-7111.

Attachments (disk under separate cover)

TABLE OF CONTENT

	<u>PAGE</u>
A. PURPOSE OF SICK LEAVE BANK	01
B. DEFINITIONS	02
C. HOW TO ESTABLISH THE SICK LEAVE BANK COMMITTEE	03
D. HOW TO BECOME A SICK LEAVE BANK RECIPIENT	04
Sick Leave Bank Eligibility	
Application Request for Recipient Under the Sick Leave Bank Program	
E. HOW TO BECOME A SICK LEAVE BANK DONOR	08
Application Request to Donate Sick Leave to Sick Leave Bank Program	
F. LIMITATION ON DONORS	10
G. APPROVAL OF APPLICATION FOR SICK LEAVE	11
H. USE OF THE SICK LEAVE WITHDRAWN FROM THE SICK LEAVE BANK	12
I. TERMINATION OF ELIGIBILITY FROM THE SICK LEAVE BANK	13
J. STATEMENT OF PROHIBITION OF COERCION	14
K. RECORD KEEPING AND REPORTS	15
Site Management Seed Hours	
Committee Certification	
Committee Sick Leave Bank Bi-Weekly Log	
Application Request for Recipient Under the Sick Leave Bank Program	
Application Request to Donate Sick Leave to Sick Leave Bank Program	
L. COMMITTEE CERTIFICATION	21
M. ACCRUAL OF SICK LEAVE	22
N. NOTIFICATION	23
SIGNATURE PAGE	24

A. PURPOSE OF THE SICK LEAVE BANK:

The purpose of the sick leave bank is to provide a voluntary sick leave bank program in which unused accrued sick leave of Office of Indian Education Program (OIEP) bargaining unit contract education employees may be donated to the sick leave bank for use by other OIEP bargaining unit contract education employees who qualify as needing sick leave due to injury or illness. Injury or illness herein is defined as a medical condition of an employee which is likely to result in the employee's absence from work for a period of time that will further result in loss of income to the employee because of non-availability of personal sick leave.

Article 40, Education Personnel System, Section 1, Employment and Section 8, Sick Leave Bank of the current negotiated agreement between the Department of the Interior, Bureau of Indian Affairs and the National Federation of Federal Employees of the Bureau of Indian Affairs Consolidated Locals are incorporated in this agreement by reference.

B. DEFINITIONS:

Accrued Sick Leave: sick leave that has been credited to the recipient either while working or while using sick leave from the sick leave bank.

Contract Educator: an individual who is contracted under the provision of P.L. 95-561, whose services are required or who is employed in an education position and who is also referred to as employee for purposes of implementing a sick leave bank.

Employee: bargaining unit contract education employee (BUCEE) under the authority of P.L. 95-561 are recognized as employees of the Bureau of Indian Affairs.

Leave Year: extends from the 1st day of the school term to the day before the 1st day of the next school year term.

Sick Leave Bank Donor or Donor: an employee who contributes sick leave to the sick leave bank.

Sick Leave Bank Recipient or Recipient: an employee who has made application and been approved for sick leave from the sick leave bank.

Site: the physical location of the school.

Sick Leave Bank or Bank: a pooled fund of sick leave for the use of the employees at the site that it was established.

Injury & Illness: has the meaning given that term in Section (A) of this document.

Sick Leave Bank Committee or Committee: employees at the site who serve to review and take action on applications for sick leave at the sick leave bank.

C. HOW TO ESTABLISH A SICK LEAVE BANK COMMITTEE:

* There will be no more than one sick leave bank committee per sick leave bank.

* There will be a three member committee that will preside over each sick leave bank. The committee will consist of two management appointed representatives and one union appointed representative. Each committee position will be a three year staggered appointment with the exception of the terms for the first appointment. The first appointment will be for 1, 2, and 3 years. Management's first appointment will be for 1 and 2 years, and the union will hold the initial 3 year appointment. If a committee member is absent from the work place, the two remaining committee members will constitute a quorum.

Among its duties the Committee will:

1. Establish internal decision making procedures.
2. Review, approve, and disapprove applications.
3. Monitor the status of each recipients injury or illness.
4. Monitor leave in the bank and the number of applications received.
5. Maintain an adequate amount of sick leave in the bank to the extent possible.

* Sick leave may not be borrowed, contributed to, or otherwise transferred between sick leave banks or between donor and recipient.

* There will be no more than one sick leave bank established per site. Sick leave and the committee's authority does not extend beyond the boundaries of the site.

D. HOW TO BECOME A SICK LEAVE BANK RECIPIENT:

The potential recipient makes application for sick leave to the sick leave bank on the prepared form entitled, Application Request for Recipient Under The Sick Leave Bank Program. The applicant signs and dates the application.

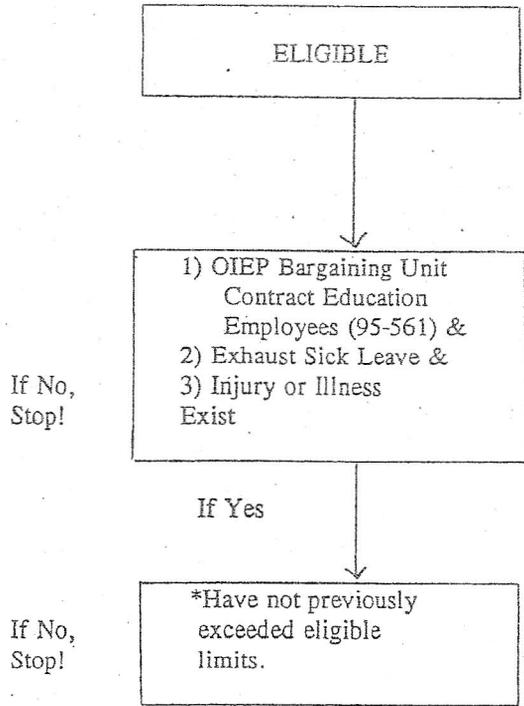
The applicant submits the application to the immediate supervisor who submits the application to the designated sick leave bank committee at the site. The committee will review the application based on the established criteria for approval or denial of an application and on the information provided on the application. The committee will notify the applicant within 7 calendar days from the date of receipt of the application of its action.

If the applicant's request for sick leave is denied by the committee, a written explanation on the space provided for on the application will be returned to the applicant. Denial of application for sick leave from the sick leave bank is not grievable. If the applicant's request is approved by the committee, the committee will so note in the appropriate space provided on the application along with the total number of hours that the applicant is entitled. The committee will sign and date and forward a copy of the application to the applicant, the Local Administrative Office, the applicant's immediate supervisor, and the timekeeper. Employees must follow normal leave procedures to request the use of the committee approved sick leave.

From the first day that the recipient begins to use the approved sick leave from the sick leave bank, the timekeeper will record and track the total number of hours used per pay period and keep a current balance of the hours used per pay period and keep a current balance of the hours that remain from the original approved sick leave bank hours. The timekeeper has the authority to charge the sick leave bank up to the total number of hours approved by the committee for the named recipient without any further action by the committee. Payroll will be alerted to the sick leave deduction through a notation in the remark section of the T & A sheet that the timekeeper charged the sick leave to the sick leave bank. These hours will be coded as regular time (hour code 010) on the time and attendance.

This procedure will continue until all the sick leave approved for the recipient has been exhausted or the sick leave has been returned to the sick leave bank.

SICK LEAVE BANK ELIGIBILITY



NOTE: All of the above conditions must apply in order for applicants to be eligible for the sick leave bank.

* Eligible limits are those in accordance with the negotiated agreement as follows in Article 40, Section 8(B)(1), (2), & (3):

"(1) Leave for Non-Long Term Illness or Injury. Eligible employees will receive up to 20 hours of sick leave from this bank during each six month interval for non-long term illness or injury.

(2) Leave for Long Term Illness and Injury. Eligible employees will receive 40 hours of sick leave from this bank for every three weeks incapacitated due to long term illness or injury.

(3) Sick Leave Bank for Maternity. Employees absent for normal maternity reasons shall be eligible to receive 40 hours of sick leave from the bank upon exhaustion of both sick, annual, and personal leave."

SICK LEAVE BANK ELIGIBILITY

The prospective recipient must meet ALL the following requirements to be eligible for consideration for receiving donated leave.

1. MUST be an OIEP bargaining unit contract education employee (P.L. 95-561).
2. MUST have exhausted all sick leave.
3. MUST have an injury or illness supported by an acceptable medical certificate or statement.
4. MUST not have previously exceeded eligibility limits as provided for in the negotiated agreement as follows in Article 40, Section 8(B)(1), (2), & (3):

"(1) Leave for Non-Long Term Illness or Injury. Eligible employees will receive up to 20 hours of sick leave from this bank during each six month interval for non-long term illness or injury.

(2) Leave for Long Term Illness or Injury. Eligible employees will receive 40 hours of sick leave from this bank for every three weeks incapacitated due to long term illness or injury.

(3) Sick Leave Bank for Maternity. Employees absent for normal maternity reasons shall be eligible to receive 40 hours of sick leave from the bank upon exhaustion of both sick, annual, and personal leave."

**APPLICATION REQUEST FOR RECIPIENT UNDER THE
SICK LEAVE BANK PROGRAM**

TO BE COMPLETED BY APPLICANT

1. Application's Name (Last, First, Middle)		2. Social Security Number	3. Date of Birth
4. Position Title, Pay Plan, and Grade/Pay Level		5. Are you a OIEP Contract Educator? YES <input type="checkbox"/> NO <input type="checkbox"/>	6. Work Telephone Number
7. Name of Organization (Agency, Department, Office, Division, Branch, etc.)			8. Payroll Office Number
9. Are you affected by Medical Emergency? YES <input type="checkbox"/> NO <input type="checkbox"/>		10. Date Medical Emergency Began	11. Date Medical Emergency Ended or is Expected to End
12. Nature and Severity of the Medical Emergency			
13. Name of Physician Who Will Verify the Medical Emergency [Attach documentation from the physician (or other appropriate expert) showing the diagnosis, prognosis, and duration of the illness].			
14. What is the Applicants Leave Balance of End of Last Pay Period?		15. How Many Hours of Leave Without Pay Have Been Used for This Medical Emergency?	
16. Name of Individual Completing the Application (If Applying on Behalf of the Applicant.		Relationship to Applicant	Telephone Number
17. Signature of Applicant or Individual Applying on Behalf of Applicant (I certify that the Above Statements are True)			Date Signed

PRIVACY ACT STATEMENT: Participation in this program is voluntary. The information furnished will be used to identify records properly associated with the application to become a leave recipient. It may also be disclosed to a national, State, or local law enforcement agency where there is an indication of a violation or potential violation of civil or criminal law, rule, or regulation; or to another agency or court where the Government is party to a suit. Executive Order 9397 (November 22, 1943) authorizes use of the Social Security Number (SSN). Furnishing the Social Security Number, as well as other data, is voluntary, but failure to do so may delay or prevent action on the application.

COMMITTEE USE ONLY

Approved Denied

Date Received: _____
Date of Action: _____
Notification Referred: _____
Total Number of Hours Approved: _____

Reason for Denial: _____

Committee Member Signatures: _____ Date: _____
_____ Date: _____
_____ Date: _____

TIMEKEEPER USE ONLY (FOLLOW-UP)

<u>Sick Leave Used:</u>				<u>Sick Leave Returned:</u>		
<u>Date</u>	<u>Pay Period</u>	<u>Used</u>	<u>Balance</u>	<u>Date</u>	<u>Balance</u>	<u>Reason</u>

E. HOW TO BECOME A SICK LEAVE BANK DONOR:

The sick leave bank donor may donate no more than 120 hours in the course of the contract year and must be in accordance with Article 40, Section 8, BIA's and NFFE's negotiated agreement.

The donor makes application to donate only sick leave not annual leave to the sick leave bank on the prepared form entitled APPLICATION REQUEST TO DONATE SICK LEAVE TO THE SICK LEAVE BANK. The donor signs and dates the form to the effect that the content of the form has been read and understood.

The request is submitted by the donor to the immediate supervisor who submits the request to the designated sick leave bank committee at the site. The committee reviews the application and based on the established criteria for approval or denial of an application, notifies the applicant by copy of the notation on the application within 7 calendar days from the date of receipt of the application of committee's action. The committee will sign and date all actions.

If the committee approves the application, the application is then submitted to the Local Administrative Office. The Local Administrative Office sends a memorandum to payroll requesting that the sick leave of the designated donor be reduced in the amount specified. Payroll makes the adjustment in the donors sick leave hours.

**APPLICATION REQUEST TO DONATE SICK LEAVE
TO THE SICK LEAVE BANK PROGRAM**

I request that sick leave be transferred to the sick leave bank. As of the date indicated below, I have enough leave in my account to cover this amount. The amount of leave I am transferring also is not more than half the hours I will earn this year 120 hours.

I understand that my decision to transfer leave is not revocable.

I have not been directly or indirectly intimidated, threatened or coerced, or promised any benefit by any employee for the purpose of donating or using leave.

PRIVACY ACT STATEMENT: This program is voluntary. The information furnished will be used to identify records properly associated with the leave donation. It may also be disclosed to a national, State, or local law enforcement agency where there is an indication of a violation or potential violation of civil or criminal law, rule, regulation; or to another agency or court when the Government is party to a suit. Executive Order 9397 (November 22, 1943) authorizes use of the Social Security Number (SSN). Furnishing the Social Security Number, as well as other data, is voluntary, but failure to do so may delay or prevent action on the request to donate leave.

TO BE COMPLETED BY LEAVE DONOR		
1. Name (Last, First, Middle)	2. Social Security Number	3. Date of Birth
4. Position Title, Pay Plan, and Grade/Pay Level	5. Are you a OIEP Contract Educator? YES <input type="checkbox"/> NO <input type="checkbox"/>	6. Work Telephone Number
7. Name of Organization (Agency, Department, Office, Division, Branch, etc.)		
8. Amount of Sick Leave as of End of Last Pay Period	9. Amount of Sick Leave To Be Transferred to the Sick Leave Bank	
10. Site of Sick Leave Bank Where Leave is Being Donated		
11. Signature (I Certify that I have Read and Understand the Above Statements to be True)		Date Signed

COMMITTEE USE ONLY

APPROVED DATE: _____

DENIED DATE: _____

Date Received: _____
Notification Referred: _____
Total # of Hours Transferred: _____

Reason for Denial: _____

Committee Member Signatures: _____ Date: _____
 _____ Date: _____
 _____ Date: _____

F. LIMITATIONS TO DONORS:

Those limitations that are provided for in Article 40 of the negotiated agreement will apply.

Any portion of the sick leave that has been donated by an individual, will be irretrievable and will remain in the sick leave bank to be used by other qualified applicants.

G. APPROVAL OF APPLICATION FOR SICK LEAVE:

The committee members established at each site in accordance with Article 40, Section 8(D) shall review applications for the sick leave recipients to determine if the person is eligible by a "injury or illness".

Before approving an application, the committee shall determine that the potential recipient has depleted their sick leave; that a injury or illness exists; and the applicant is a OIEP bargaining unit contract education employee.

If the application is approved the applicant will be notified by receipt of a copy of his/her application within 7 calendar days from the committee's logged receipt of the application.

If not approved, the applicant will be notified by receipt of his/her application within 7 calendar days from the committee's logged receipt of the application and the reasons for disapproval.

H. USE OF SICK LEAVE FROM THE SICK LEAVE BANK:

The recipient must have exhausted all accrued sick leave before they will be considered eligible for leave in the sick leave bank. Approval and use of the transferred leave will be done in accordance with the NFFE Agreement, Article 40, Section 8.

Transferred sick leave may not be transferred from one recipient to another. Any unused sick leave will be transferred back to the sick leave bank for redistribution by the committee.

Transferred sick leave will not be factored into the calculation for any lump sum payment for any settlement that might be due the recipient. Neither will sick leave from the bank be credited to an employee upon returning to work, but the unused portion will be returned to the sick leave bank.

If sick leave is not used within six (6) pay periods it will be returned to the sick leave bank.

I. TERMINATION OF SICK LEAVE BANK ELIGIBILITY:

Sick leave bank eligibility will be terminated when an employee's contract educators status changes or when an employee leaves the federal service.

When the committee receives a written notification from the recipient or a representative of that recipient that the injury or illness no longer exists, such leave eligibility will terminate. It will be effective at the end of the next bi-weekly pay period.

When the injury or illness no longer applies, no more requests will be accepted by the recipient and all unused sick leave will be restored back to the sick leave bank.

J. STATEMENT OF PROHIBITION OF COERCION:

An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right such employee may have with respect to freely choosing to contribute or not contribute and/or use or withdraw of sick leave as it relates to the sick leave bank.

K. RECORD KEEPING AND REPORTS

Each committee will maintain records and reports which reflects the current status of the bank from which to evaluate the continuation of the sick leave bank.

Each committee will, as provided for herein, provide and keep timely and accurate reports, certification, and records for review for the continuation of the sick leave bank program. This means that the forms entitled APPLICATION REQUEST FOR RECIPIENT UNDER THE SICK LEAVE BANK PROGRAM; APPLICATION REQUEST TO DONATE SICK LEAVE TO THE SICK LEAVE BANK PROGRAM; SITE MANAGEMENT SEED HOURS; COMMITTEE CERTIFICATION; and COMMITTEE SICK LEAVE BANK BY-WEEKLY LOG; shall be maintained at each site in three year increments. The original form entitled APPLICATION REQUEST TO DONATE SICK LEAVE shall be attached to the individual employee's time and attendance (T & A) report for the pay period during which the request was made. A copy of that form will remain on record with the committee.

(Sample copies of the above referenced forms follow in this section.)

SITE MANAGEMENT SEED HOURS

Site Name: _____

Total Number of Bargaining Unit Contract Education Employees on 1st Day of School Term _____

• Donation 1/2 hr/per employee per sick leave year _____

• Total number of donated sick leave hours 1st day of school term _____

• Residual sick leave hour remaining in bank from preceding year _____

• Total hours in sick leave bank _____

In accordance with the negotiated agreement, Management provides the above mentioned information concerning the total number of sick leave hours to be true and accurate to the best of my knowledge and our records.

Site Administrator

Date

Committee Member Signatures: _____ Date _____

_____ Date _____

_____ Date _____

NOTICE: This form must be completed by the site administrator, signed and dated by the appropriate parties, and forwarded to OIEP, Central Office within 30 days from the 1st day of the school term. A copy must also be provided the Committee within the same time period.

COMMITTEE CERTIFICATION

Site Name: _____

Total Bargaining Unit Contract Educator Employees Sick Leave Hours Donated 1st Pay Period _____

October 19 _____

May 19 _____

Total number of management sick leave seed hours donated 1st day of the school term 19 _____.

_____ hours

Residual sick leave hours remaining in sick leave bank as of the beginning of the 1st pay period.

_____ hours

Total sick leave hours in the sick leave bank.

_____ hours

NOTE: By May 31, this Committee report must be submitted to appropriate line office.

We, the Committee, certify that the above accurately represents the Committee's current records on the sick leave bank.

Committee Member Signatures: _____ Date: _____

_____ Date: _____

_____ Date: _____

COMMITTEE

SICK LEAVE BANK BI-WEEKLY LOG

LOG FOR PERIOD _____ TO _____

. Total sick leave available at beginning of period _____
. Total hours of sick leave approved _____
. Total sick leave remaining _____

. Current active number of recipients at beginning
period _____
. New applicants approved this period _____
. Recipients found ineligible this period _____
. Recipients at end of period _____

**APPLICATION REQUEST FOR RECIPIENT UNDER THE
SICK LEAVE BANK PROGRAM**

TO BE COMPLETED BY APPLICANT

1. Application's Name (Last, First, Middle)		2. Social Security Number	3. Date of Birth
4. Position Title, Pay Plan, and Grade/Pay Level		5. Are you a OIEP Contract Educator? YES <input type="checkbox"/> NO <input type="checkbox"/>	6. Work Telephone Number
7. Name of Organization (Agency, Department, Office, Division, Branch, etc.)			8. Payroll Office Number
9. Are you affected by Medical Emergency? YES <input type="checkbox"/> NO <input type="checkbox"/>		10. Date Medical Emergency Began	11. Date Medical Emergency Ended or is Expected to End
12. Nature and Severity of the Medical Emergency			
13. Name of Physician Who Will Verify the Medical Emergency [Attach documentation from the physician (or other appropriate expert) showing the diagnosis, prognosis, and duration of the illness].			
14. What is the Applicants Leave Balance of End of Last Pay Period?		15. How Many Hours of Leave Without Pay Have Been Used for This Medical Emergency?	
16. Name of Individual Completing the Application (If Applying on Behalf of the Applicant).		Relationship to Applicant	Telephone Number
17. Signature of Applicant or Individual Applying on Behalf of Applicant (I certify that the Above Statements are True)			Date Signed

PRIVACY ACT STATEMENT: Participation in this program is voluntary. The information furnished will be used to identify records properly associated with the application to become a leave recipient. It may also be disclosed to a national, State, or local law enforcement agency where there is an indication of a violation or potential violation of civil or criminal law, rule, or regulation; or to another agency or court where the Government is party to a suit. Executive Order 9397 (November 22, 1943) authorizes use of the Social Security Number (SSN). Furnishing the Social Security Number, as well as other data, is voluntary, but failure to do so may delay or prevent action on the application.

COMMITTEE USE ONLY

Approved Denied

Date Received:
Date of Action:
Notification Referred:
Total Number of Hours Approved:

Reason for Denial: _____

Committee Member Signatures: _____ Date: _____
 _____ Date: _____
 _____ Date: _____

TIMEKEEPER USE ONLY (FOLLOW-UP)

Sick Leave Used:

Date Pay Period Used Balance

Sick Leave Returned:

Date Balance Reason

**APPLICATION REQUEST TO DONATE SICK LEAVE
TO THE SICK LEAVE BANK PROGRAM**

I request that sick leave be transferred to the sick leave bank. As of the date indicated below, I have enough leave in my account to cover this amount. The amount of leave I am transferring also is not more than half the hours I will earn this year 120 hours.

I understand that my decision to transfer leave is not revocable.

I have not been directly or indirectly intimidated, threatened or coerced, or promised any benefit by any employee for the purpose of donating or using leave.

PRIVACY ACT STATEMENT: This program is voluntary. The information furnished will be used to identify records properly associated with the leave donation. It may also be disclosed to a national, State, or local law enforcement agency where there is an indication of a violation or potential violation of civil or criminal law, rule, regulation; or to another agency or court when the Government is party to a suit. Executive Order 9397 (November 22, 1943) authorizes use of the Social Security Number (SSN). Furnishing the Social Security Number, as well as other data, is voluntary, but failure to do so may delay or prevent action on the request to donate leave.

TO BE COMPLETED BY LEAVE DONOR		
1. Name (Last, First, Middle)	2. Social Security Number	3. Date of Birth
4. Position Title, Pay Plan, and Grade/Pay Level	5. Are you a OIEP Contract Educator? YES <input type="checkbox"/> NO <input type="checkbox"/>	6. Work Telephone Number
7. Name of Organization (Agency, Department, Office, Division, Branch, etc.)		
8. Amount of Sick Leave as of End of Last Pay Period	9. Amount of Sick Leave To Be Transferred to the Sick Leave Bank	
10. Site of Sick Leave Bank Where Leave is Being Donated		
11. Signature (I Certify that I have Read and Understand the Above Statements to be True)		Date Signed

COMMITTEE USE ONLY

APPROVED DATE: _____
DENIED DATE: _____

Date Received: _____
Notification Referred: _____
Total # of Hours Transferred: _____

Reason for Denial: _____

Committee Member Signatures: _____ Date: _____
_____ Date: _____
_____ Date: _____

L. COMMITTEE CERTIFICATION:

Before any sick leave from the sick leave bank may be approved for any employees for the months proceeding the donation periods of October and May, the Committee must file the respective committee certification form with the Agency's OIEP line office. The Committee certifies that the figures accurately reflect the Committee's records for the sick leave bank. The education line office shall maintain a record of each site's annual sick leave bank balance. These records will be maintained in three year increments.

M. ACCRUAL OF SICK LEAVE:

Sick leave shall accrue to the credit of a sick leave recipient using sick leave withdrawn from a sick leave bank at the same rate as if the employee were then in a paid sick leave status.

The maximum amount of sick leave that may be accrued by a sick leave recipient while using sick leave withdrawn from a sick leave bank in connection with any particular injury or illness may not exceed 40 hours (or, in the case of a part-time employee or an employee with an uncommon tour of duty, the average number of hours of work in the employee's weekly scheduled tour of duty).

If the sick leave recipient's injury or illness terminates, no sick leave shall be credited to the employee under this section.

N. NOTIFICATION:

Management will inform bargaining unit contract education employees on a one time basis that the sick leave bank is in existence. In this communication management will inform the employees that if they are separated from service, they may donate unused sick leave to the leave bank and time limitations will not be limited to the October and May donation window periods.

In addition, the initial October window period for donating sick leave to the sick leave bank will extend 30 days after the employee receives written notice that the sick leave bank is in existence.

The sick leave bank committee will be in place within 10 days from the date the sites received notification of the sick leave bank existence.

SAMPLE

Memorandum

To: All Bargaining Unit Contract Education Employees

From: (Agency Superintendent for Education or Area
Personnel Officer)

Subject: Notification of NFFE Contract Education Employees Sick
Leave Bank Program Existence

In accordance with Section (N), NOTIFICATION, of the negotiated supplemental agreement of the Implementation Procedures for the Sick Leave Bank Program, this is notice that the sick leave bank is in existence. Employees who will separate from service and who will otherwise forfeit their sick leave may donate unused sick leave to the leave bank and time limits will not be limited to the October and May donation window period.

For start up purposes only, the initial window period for donating sick leave to the sick leave bank will extend 30 days from the date the employee receives this notice.

The above mentioned section provides that the sick leave bank committee will be in place within 10 days from the date the sites receive notification of the sick leave bank existence.

The NFFE Union will make a written request to start a sick leave bank at each designated site to the area administrative office and submit the name of the Union's appointed representative.

For information on implementation procedures and applications, please contact the Agency Superintendent for Education or the Area Personnel Officer.

EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.



For additional information:
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627
WWW.WAGEHOUR.DOL.GOV



Fact Sheet #28: The Family and Medical Leave Act of 1993



Notice: On October 28, 2009, the President signed the National Defense Authorization Act for Fiscal Year 2010 (2010 NDAA), [Public Law 111-84](#). Section 565 of the 2010 NDAA amends the military family leave entitlements of the Family and Medical Leave Act (FMLA). These amendments expand coverage for “qualifying exigency” leave to eligible employees with covered family members in the Regular Armed Forces and coverage for “military caregiver leave” to eligible employees who are the spouse, son, daughter, parent, or next of kin of certain veterans with a “serious injury or illness”. On December 21, 2009, the President signed the Airline Flight Crew Technical Corrections Act, [Public Law 111-119](#), which modifies the FMLA eligibility requirements for flight crew members. This Fact Sheet does not incorporate these amendments to the FMLA.

The U.S. Department of Labor's Employment Standards Administration, Wage and Hour Division, administers and enforces the Family and Medical Leave Act (FMLA) for all private, state and local government employees, and some federal employees. Most federal and certain congressional employees are also covered by the law and are subject to the jurisdiction of the U.S. Office of Personnel Management or the Congress.

The FMLA entitles eligible employees to take up to 12 workweeks of unpaid, job-protected leave in a 12-month period for specified family and medical reasons, or for any “qualifying exigency” arising out of the fact that a covered military member is on active duty, or has been notified of an impending call or order to active duty, in support of a contingency operation. The FMLA also allows eligible employees to take up to 26 workweeks of job-protected leave in a “single 12-month period” to care for a covered servicemember with a serious injury or illness. See [Fact Sheet #28A: The Family and Medical Leave Act Military Family Leave Entitlements](#).

EMPLOYER COVERAGE

The FMLA applies to all public agencies, including state, local and federal employers, local education agencies (schools), **and** private-sector employers who employed 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including joint employers and successors of covered employers.

EMPLOYEE ELIGIBILITY

To be eligible for FMLA benefits, an employee **must**:

- work for a covered employer;
- have worked for the employer for a total of 12 months;
- have worked at least 1,250 hours over the previous 12 months; and
- work at a location in the United States or in any territory or possession of the United States where at least 50 employees are employed by the employer within 75 miles.

While the 12 months of employment need not be consecutive, employment periods prior to a break in service of **seven** years or more need not be counted unless the break is occasioned by the employee’s fulfillment of his or her National Guard or Reserve military obligation (as protected under the Uniformed Services Employment and Reemployment Rights Act (USERRA)), or a written agreement, including a collective bargaining agreement, exists concerning the employer’s intention to rehire the employee after the break in service. See [“FMLA Special Rules for Returning Reservists.”](#)

LEAVE ENTITLEMENT

A covered employer must grant an eligible employee up to a total of **12 workweeks** of **unpaid** leave during any 12-month period for one or more of the following reasons:

- for the birth and care of a newborn child of the employee;
- for placement with the employee of a son or daughter for adoption or foster care;
- to care for a spouse, son, daughter, or parent with a serious health condition;
- to take medical leave when the employee is unable to work because of a serious health condition; **or**
- for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or call to active duty status as a member of the National Guard or Reserves in support of a contingency operation.

A covered employer also must grant an eligible employee who is a spouse, son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness up to a total of **26 workweeks** of **unpaid** leave during a "single 12-month period" to care for the servicemember. For specific information regarding military family leave, *see* "[Fact Sheet #28A: The Family and Medical Leave Act Military Family Leave Entitlements.](#)"

Spouses employed by the same employer are limited in the **amount of** family leave they may take for the birth and care of a newborn child, placement of a child for adoption or foster care, or to care for a parent who has a serious health condition to a combined total of 12 workweeks (or 26 workweeks if leave to care for a covered servicemember with a serious injury or illness is also used). Leave for birth and care, or placement for adoption or foster care, must conclude within 12 months of the birth or placement.

Under some circumstances, employees may take FMLA leave intermittently – taking leave in separate blocks of time for a single qualifying reason – or on a reduced leave schedule – reducing the employee's usual weekly or daily work schedule. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operation. If FMLA leave is for birth and care, or placement for adoption or foster care, use of intermittent leave is subject to the employer's approval.

Under certain conditions, employees **or** employers may choose to "substitute" (run concurrently) accrued **paid** leave (such as sick or vacation leave) to cover some or all of the FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy.

"**Serious health condition**" means an illness, injury, impairment, or physical or mental condition that involves either:

- Inpatient care (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical-care facility, including any period of incapacity (*i.e.*, inability to work, attend school, or perform other regular daily activities) or subsequent treatment in connection with such inpatient care; **or**
- Continuing treatment by a health care provider, which includes:
 - (1) A period of incapacity lasting more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that **also** includes:
 - treatment two or more times by or under the supervision of a health care provider (*i.e.*, in-person visits, the first within 7 days and both within 30 days of the first day of incapacity); **or**

- one treatment by a health care provider (*i.e.*, an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of treatment (*e.g.*, prescription medication, physical therapy); **or**

(2) Any period of incapacity related to pregnancy or for prenatal care. A visit to the health care provider is not necessary for each absence; **or**

(3) Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence; **or**

(4) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment; **or**

(5) Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three days if not treated.

MAINTENANCE OF HEALTH BENEFITS

A covered employer is required to maintain group health insurance coverage for an employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. If applicable, arrangements will need to be made for employees to pay their share of health insurance premiums while on leave. In some instances, the employer may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave.

JOB RESTORATION

Upon return from FMLA leave, an employee must be restored to the employee's original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. An employee's use of FMLA leave cannot result in the loss of any employment benefit that the employee earned or was entitled to **before** using FMLA leave, nor be counted against the employee under a "no fault" attendance policy. If a bonus or other payment, however, is based on the achievement of a specified goal such as hours worked, products sold, or perfect attendance, and the employee has not met the goal due to FMLA leave, payment may be denied unless it is paid to an employee on equivalent leave status for a reason that does not qualify as FMLA leave.

An employee has no greater right to restoration or to other benefits and conditions of employment than if the employee had been continuously employed.

NOTICE AND CERTIFICATION

Employee Notice

Employees seeking to use FMLA leave are required to provide 30-day advance notice of the need to take FMLA leave when the need is foreseeable and such notice is practicable. If leave is foreseeable less than 30 days in advance, the employee must provide notice as soon as practicable – generally, either the same or next business day. When the need for leave is not foreseeable, the employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case. Absent unusual circumstances, employees must comply with the employer's usual and customary notice and procedural requirements for requesting leave.

Employees must provide sufficient information for an employer reasonably to determine whether the FMLA may apply to the leave request. Depending on the situation, such information may include that the employee is incapacitated due to pregnancy, has been hospitalized overnight, is unable to perform the functions of the job, and/or that the employee or employee's qualifying family member is under the continuing care of a health care provider.

When an employee seeks leave for a FMLA-qualifying reason for the **first** time, the employee need not expressly assert FMLA rights or even mention the FMLA. When an employee seeks leave, however, due to a FMLA-qualifying reason for which the employer has previously provided the employee FMLA-protected leave, the employee **must** specifically reference either the qualifying reason for leave or the need for FMLA leave.

Employer Notice

Covered employers must post a notice approved by the Secretary of Labor explaining rights and responsibilities under the FMLA. An employer that willfully violates this posting requirement may be subject to a civil money penalty of up to \$110 for each separate offense. Additionally, employers must either include this general notice in employee handbooks or other written guidance to employees concerning benefits, or must distribute a copy of the notice to each new employee upon hiring. Employers may use the [notice](#) prepared by U.S. Department of Labor to meet this requirement.

When an employee requests FMLA leave or the employer acquires knowledge that leave may be for a FMLA purpose, the employer must notify the employee of his or her eligibility to take leave, and inform the employee of his/her rights and responsibilities under the FMLA. When the employer has enough information to determine that leave is being taken for a FMLA-qualifying reason, the employer must notify the employee that the leave is designated and will be counted as FMLA leave. Employers may use the optional forms [WH-381](#) and [WH-382](#) prepared by the U.S. Department of Labor to meet these notification requirements.

Certification

Employers may require that an employee's request for leave due to a serious health condition affecting the employee or a covered family member be supported by a certification from a health care provider. An employer may require second or third medical opinions (at the employer's expense) and periodic recertification of a serious health condition. An employer may use a health care provider, a human resource professional, a leave administrator, or a management official – but not the employee's direct supervisor – to authenticate or clarify a medical certification of a serious health condition. An employer may have a uniformly-applied policy requiring employees returning from leave for their own serious health condition to submit a certification that they are able to resume work. If reasonable safety concerns exist, an employer may, under certain circumstances, require such a certification for employees returning from intermittent FMLA leave. Employers may use the optional forms [WH-380-E](#) and [WH-380-F](#) prepared by the U.S. Department of Labor for obtaining medical certifications of serious health conditions.

UNLAWFUL ACTS

It is unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided by the FMLA. It is also unlawful for an employer to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding, related to the FMLA.

ENFORCEMENT

The Wage and Hour Division investigates complaints. If violations cannot be satisfactorily resolved, the U.S. Department of Labor may bring action in court to compel compliance. Individuals may also be able to bring a private civil action against an employer for violations.

OTHER PROVISIONS

Special rules apply to employees of local education agencies. Generally, these rules apply to intermittent leave or when leave is required near the end of a school term.

Salaried executive, administrative, and professional employees of covered employers who meet the Fair Labor Standards Act (FLSA) criteria for exemption from minimum wage and overtime under Regulations, 29 CFR Part 541, do not lose their FLSA-exempt status by using any unpaid FMLA leave. This special exception to the “salary basis” requirements for FLSA’s exemption extends only to an “eligible” employee’s use of leave required by the FMLA.

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4-USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

1-866-4-USWAGE
TTY: 1-866-487-9243
[Contact Us](#)

Certification of Health Care Provider for
Employee's Serious Health Condition
(Family and Medical Leave Act)

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division



OMB Control Number: 1215-0181
Expires: 12/31/2011

SECTION I: For Completion by the EMPLOYER

INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

Employer name and contact: _____

Employee's job title: _____ Regular work schedule: _____

Employee's essential job functions: _____

Check if job description is attached: _____

SECTION II: For Completion by the EMPLOYEE

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 20 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: _____
First Middle Last

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice / Medical specialty: _____

Telephone: (_____) _____ Fax: (_____) _____

PART A: MEDICAL FACTS

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Mark below as applicable:

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

No Yes. If so, dates of admission:

Date(s) you treated the patient for condition:

Will the patient need to have treatment visits at least twice per year due to the condition? No Yes.

Was medication, other than over-the-counter medication, prescribed? No Yes.

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?

No Yes. If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? No Yes. If so, expected delivery date: _____

3. Use the information provided by the employer in Section I to answer this question. If the employer fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions.

Is the employee unable to perform any of his/her job functions due to the condition: No Yes.

If so, identify the job functions the employee is unable to perform:

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

PART B: AMOUNT OF LEAVE NEEDED

5. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery? No Yes.

If so, estimate the beginning and ending dates for the period of incapacity: _____

6. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition? No Yes.

If so, are the treatments or the reduced number of hours of work medically necessary?
 No Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Estimate the part-time or reduced work schedule the employee needs, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

7. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions? No Yes.

Is it medically necessary for the employee to be absent from work during the flare-ups?
 No Yes. If so, explain:

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode

ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER.

SECTION III: For Completion by the HEALTH CARE PROVIDER

INSTRUCTIONS to the HEALTH CARE PROVIDER: The employee listed above has requested leave under the FMLA to care for your patient. Answer, fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as “lifetime,” “unknown,” or “indeterminate” may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the patient needs leave. Page 3 provides space for additional information, should you need it. Please be sure to sign the form on the last page.

Provider’s name and business address: _____

Type of practice / Medical specialty: _____

Telephone: (_____) _____ Fax:(_____) _____

PART A: MEDICAL FACTS

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?
 No Yes. If so, dates of admission: _____

Date(s) you treated the patient for condition: _____

Was medication, other than over-the-counter medication, prescribed? No Yes.

Will the patient need to have treatment visits at least twice per year due to the condition? No Yes

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?
 No Yes. If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? No Yes. If so, expected delivery date: _____

3. Describe other relevant medical facts, if any, related to the condition for which the patient needs care (such as medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

PART B: AMOUNT OF CARE NEEDED: When answering these questions, keep in mind that your patient's need for care by the employee seeking leave may include assistance with basic medical, hygienic, nutritional, safety or transportation needs, or the provision of physical or psychological care:

4. Will the patient be incapacitated for a single continuous period of time, including any time for treatment and recovery? No Yes.

Estimate the beginning and ending dates for the period of incapacity: _____

During this time, will the patient need care? No Yes.

Explain the care needed by the patient and why such care is medically necessary:

5. Will the patient require follow-up treatments, including any time for recovery? No Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Explain the care needed by the patient, and why such care is medically necessary: _____

6. Will the patient require care on an intermittent or reduced schedule basis, including any time for recovery? No Yes.

Estimate the hours the patient needs care on an intermittent basis, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

Explain the care needed by the patient, and why such care is medically necessary:

7. Will the condition cause episodic flare-ups periodically preventing the patient from participating in normal daily activities? ___No ___Yes.

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: ___ times per ___ week(s) ___ month(s)

Duration: ___ hours or ___ day(s) per episode

Does the patient need care during these flare-ups? ___ No ___ Yes.

Explain the care needed by the patient, and why such care is medically necessary: _____

ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER.

Signature of Health Care Provider

Date

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Ave., NW, Washington, DC 20210.
DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR; RETURN TO THE PATIENT.

Certification for Serious Injury or
Illness of Covered Servicemember - -
for Military Family Leave (Family and
Medical Leave Act)

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division



OMB Control Number: 1215-0181
Expires: 12/31/2011

Notice to the EMPLOYER INSTRUCTIONS to the EMPLOYER: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA leave due to a serious injury or illness of a covered servicemember to submit a certification providing sufficient facts to support the request for leave. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. § 825.310. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees or employees' family members, created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

SECTION I: For Completion by the EMPLOYEE and/or the COVERED SERVICEMEMBER for whom the Employee Is Requesting Leave INSTRUCTIONS to the EMPLOYEE or COVERED SERVICEMEMBER: Please complete Section I before having Section II completed. The FMLA permits an employer to require that an employee submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a serious injury or illness of a covered servicemember. If requested by the employer, your response is required to obtain or retain the benefit of FMLA-protected leave. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to do so may result in a denial of an employee's FMLA request. 29 C.F.R. § 825.310(f). The employer must give an employee at least 15 calendar days to return this form to the employer.

SECTION II: For Completion by a UNITED STATES DEPARTMENT OF DEFENSE ("DOD") HEALTH CARE PROVIDER or a HEALTH CARE PROVIDER who is either: (1) a United States Department of Veterans Affairs ("VA") health care provider; (2) a DOD TRICARE network authorized private health care provider; or (3) a DOD non-network TRICARE authorized private health care provider INSTRUCTIONS to the HEALTH CARE PROVIDER: The employee listed on Page 2 has requested leave under the FMLA to care for a family member who is a member of the Regular Armed Forces, the National Guard, or the Reserves who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness. For purposes of FMLA leave, a serious injury or illness is one that was incurred in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating.

A complete and sufficient certification to support a request for FMLA leave due to a covered servicemember's serious injury or illness includes written documentation confirming that the covered servicemember's injury or illness was incurred in the line of duty on active duty and that the covered servicemember is undergoing treatment for such injury or illness by a health care provider listed above. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave.

Certification for Serious Injury or Illness
of Covered Servicemember - - for
Military Family Leave (Family and
Medical Leave Act)

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division



SECTION I: For Completion by the EMPLOYEE and/or the COVERED SERVICEMEMBER for whom the Employee Is Requesting Leave: (This section must be completed first before any of the below sections can be completed by a health care provider.)

Part A: EMPLOYEE INFORMATION

Name and Address of Employer (this is the employer of the employee requesting leave to care for covered servicemember):

Name of Employee Requesting Leave to Care for Covered Servicemember:

First Middle Last

Name of Covered Servicemember (for whom employee is requesting leave to care):

First Middle Last

Relationship of Employee to Covered Servicemember Requesting Leave to Care:

Spouse Parent Son Daughter Next of Kin

Part B: COVERED SERVICEMEMBER INFORMATION

(1) Is the Covered Servicemember a Current Member of the Regular Armed Forces, the National Guard or Reserves? ___Yes ___No

If yes, please provide the covered servicemember's military branch, rank and unit currently assigned to:

Is the covered servicemember assigned to a military medical treatment facility as an outpatient or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients (such as a medical hold or warrior transition unit)? ___Yes ___No If yes, please provide the name of the medical treatment facility or unit:

(2) Is the Covered Servicemember on the Temporary Disability Retired List (TDRL)? ___Yes ___No

Part C: CARE TO BE PROVIDED TO THE COVERED SERVICEMEMBER

Describe the Care to Be Provided to the Covered Servicemember and an Estimate of the Leave Needed to Provide the Care:

SECTION II: For Completion by a United States Department of Defense (“DOD”) Health Care Provider or a Health Care Provider who is either: (1) a United States Department of Veterans Affairs (“VA”) health care provider; (2) a DOD TRICARE network authorized private health care provider; or (3) a DOD non-network TRICARE authorized private health care provider. If you are unable to make certain of the military-related determinations contained below in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as a DOD recovery care coordinator). (Please ensure that Section I above has been completed before completing this section.) Please be sure to sign the form on the last page.

Part A: HEALTH CARE PROVIDER INFORMATION

Health Care Provider’s Name and Business Address:

Type of Practice/Medical Specialty: _____

Please state whether you are either: (1) a DOD health care provider; (2) a VA health care provider; (3) a DOD TRICARE network authorized private health care provider; or (4) a DOD non-network TRICARE authorized private health care provider: _____

Telephone: () _____ Fax: () _____ Email: _____

PART B: MEDICAL STATUS

(1) Covered Servicemember’s medical condition is classified as (Check One of the Appropriate Boxes):

- (VSI) Very Seriously Ill/Injured** – Illness/Injury is of such a severity that life is imminently endangered. Family members are requested at bedside immediately. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)
- (SI) Seriously Ill/Injured** – Illness/injury is of such severity that there is cause for immediate concern, but there is no imminent danger to life. Family members are requested at bedside. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)
- OTHER Ill/Injured** – a serious injury or illness that may render the servicemember medically unfit to perform the duties of the member’s office, grade, rank, or rating.
- NONE OF THE ABOVE** (Note to Employee: If this box is checked, you may still be eligible to take leave to care for a covered family member with a “serious health condition” under § 825.113 of the FMLA. If such leave is requested, you may be required to complete DOL FORM WH-380 or an employer-provided form seeking the same information.)

(2) Was the condition for which the Covered Service member is being treated incurred in line of duty on active duty in the armed forces? ___ Yes ___ No

(3) Approximate date condition commenced: _____

(4) Probable duration of condition and/or need for care: _____

(5) Is the covered servicemember undergoing medical treatment, recuperation, or therapy? ___ Yes ___ No. If yes, please describe medical treatment, recuperation or therapy:

PART C: COVERED SERVICEMEMBER'S NEED FOR CARE BY FAMILY MEMBER

- (1) Will the covered servicemember need care for a single continuous period of time, including any time for treatment and recovery? Yes No
If yes, estimate the beginning and ending dates for this period of time: _____

- (2) Will the covered servicemember require periodic follow-up treatment appointments?
 Yes No If yes, estimate the treatment schedule: _____

- (3) Is there a medical necessity for the covered servicemember to have periodic care for these follow-up treatment appointments? Yes No

- (4) Is there a medical necessity for the covered servicemember to have periodic care for other than scheduled follow-up treatment appointments (e.g., episodic flare-ups of medical condition)? Yes No If yes, please estimate the frequency and duration of the periodic care:

Signature of Health Care Provider: _____ **Date:** _____

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years, in accordance with 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution AV, NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION; RETURN IT TO THE PATIENT.**

PART A: QUALIFYING REASON FOR LEAVE

1. Describe the reason you are requesting FMLA leave due to a qualifying exigency (including the specific reason you are requesting leave):

2. A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes any available written documentation which supports the need for leave; such documentation may include a copy of a meeting announcement for informational briefings sponsored by the military, a document confirming an appointment with a counselor or school official, or a copy of a bill for services for the handling of legal or financial affairs. Available written documentation supporting this request for leave is attached. Yes No None Available

PART B: AMOUNT OF LEAVE NEEDED

1. Approximate date exigency commenced: _____

Probable duration of exigency: _____

2. Will you need to be absent from work for a single continuous period of time due to the qualifying exigency? No Yes.

If so, estimate the beginning and ending dates for the period of absence:

3. Will you need to be absent from work periodically to address this qualifying exigency? No Yes.

Estimate schedule of leave, including the dates of any scheduled meetings or appointments: _____

Estimate the frequency and duration of each appointment, meeting, or leave event, including any travel time (i.e., 1 deployment-related meeting every month lasting 4 hours):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours _____ day(s) per event.

PART C:

If leave is requested to meet with a third party (such as to arrange for childcare, to attend counseling, to attend meetings with school or childcare providers, to make financial or legal arrangements, to act as the covered military member's representative before a federal, state, or local agency for purposes of obtaining, arranging or appealing military service benefits, or to attend any event sponsored by the military or military service organizations), a complete and sufficient certification includes the name, address, and appropriate contact information of the individual or entity with whom you are meeting (i.e., either the telephone or fax number or email address of the individual or entity). This information may be used by your employer to verify that the information contained on this form is accurate.

Name of Individual: _____ Title: _____

Organization: _____

Address: _____

Telephone: (_____) _____ Fax: (_____) _____

Email: _____

Describe nature of meeting: _____

PART D:

I certify that the information I provided above is true and correct.

Signature of Employee

Date

PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN STATEMENT

If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding this burden estimate or any other aspect of this collection information, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution AV, NW, Washington, DC 20210. **DO NOT SEND THE COMPLETED FORM TO THE WAGE AND HOUR DIVISION; RETURN IT TO THE EMPLOYER.**

BUREAU OF INDIAN EDUCATION
Reduction-In-Force OUTPLACEMENT ASSISTANCE REQUEST FORM

Employee Name: _____

Place of Employment (School/Duty Location): _____

Title/grade: _____

Date received Reduction-In-Force Notice: _____

Section I - Identification

INSTRUCTIONS: This form is to be completed by Contract Education Personnel, CE or CY ONLY, and submitted to the BIE Human Resources Office, P.O. BOX 769, ALBUQUERQUE, NEW MEXICO, 87103, within 60 days of receipt of RIF separation notice along with the following:

_____ Updated OF-612, Optional Application for Federal Employment, or Resume.

_____ Official Transcripts, if applicable

_____ Copy of state certification and/or license if required

_____ Copy of Specific Notice of Reduction-in-force

Copy of SF-50B, RIF Separation action (Will be provided by HR Specialist, if applicable)

Section II - Job availability

Please indicate below the types of positions, series, and pay levels for which you are qualified and will accept referrals. Also include your geographic preference for employment within the BIE personnel system (list below).

1. _____
Job title, series and pay level

2. _____
Job title, series and pay level

Please indicate if you are available for: _____ Full Time _____ Part Time

Geographic preference for employment

1. _____
Education Line Office and/or School duty location
2. _____
Education Line Office and/or School duty location
3. _____
Education Line Office and/or School duty location

Employee:

I certify, I am available for the positions, series, and pay level of employment and duty locations I have selected above. I further understand that any or all of the information contained herein will be made available to prospective employers listed above within the Bureau of Indian Education. I understand that if I fail to permit release of this information, I will not be given further consideration for this outplacement program. I also understand that placement requires local school board consultation.

Employee Signature

Date

Bureau of Indian Education Human Resources Office:

I certify the information supplied as to the employee's current last appointment is correct. The employee's current status is:

Separated by RIF - effective date: _____

Under Specific Notice of Separation by RIF to be effective: _____

Date the employee's above credentials referred to the specified Education Line Office and/or School Duty Location: _____

Human Resources Officer/Specialist

Date

NOTE: It is the responsibility of the hiring official (Line office or School level) to make direct contact with the employee and follow their selection process.

Department of Interior
 Re-Employment Priority List Application Form
 (see reverse side for instructions and notice)

Part I: Applicant Data

1. Applicant Name: (Last, first, middle initial)		2. SSN	
3. Address:		4. Phone No:	
5. Date of Separation Notice:		6. Separation Date:	
7A. Retention Order (Circle One in Each Below)		B. Indian Preference (BIA ONLY):	
Tenure Group: 1	2	Subgroup: AD	A B
		Yes	No

Part II: Applicant Employment/Availability Data

8. Current (LAST) Position (Enter Job Series/Grade/Title below):			
Series:		Grade:	Title:
9. Current Duty Station Location (City, State):			
10. Current Appointment Type (Check One)		11. Willing to relocate (Optional):	12. Lowest Grade that you will accept (not in excess of 3 grades/intervals below current & list no more than 3):
<input type="checkbox"/> Competitive		<input type="checkbox"/> Yes	A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/>
<input type="checkbox"/> Excepted		<input type="checkbox"/> No	
13. Current Work Schedule (Check One)		14. Other work schedule willing to accept:	15. Select one or more Type of Position willing to accept:
<input type="checkbox"/> Full-time		<input type="checkbox"/> Full-time	
<input type="checkbox"/> Part-time		<input type="checkbox"/> Part-time	<input type="checkbox"/> Permanent
<input type="checkbox"/> Seasonal		<input type="checkbox"/> Seasonal	
<input type="checkbox"/> Intermittent		<input type="checkbox"/> Intermittent	<input type="checkbox"/> Temporary
16. Other positions for which you believe that your are qualified (list below):			
(A) Series:		Grade:	Title:
(A) Series:		Grade:	Title:
(A) Series:		Grade:	Title:

Part III: Applicant's Signature:

Signature	Date:
-----------	-------

Part IV: Entries made by the Applicant's SPO

17. Bureau:	18. Name of SPO Contact:
19. SPO Address w/phone no.:	
20. SPO Verification of Qualifications for Series/Grade/Title listed by Applicant in Field 16:	
16(a)	16(B) 16(C)

RPL APPLICATION FORM

INTERIM INSTRUCTIONS: This form (reverse side) is to be completed by the applicant with the assistance of the Servicing Personnel Office. Parts I, II, and III are to be completed by the applicant. Part IV, including the certification of qualifications for the job series and grades being entered by the applicant, is to be completed by the Servicing Personnel Office. The SPO will submit one copy to the Reemployment Priority List Coordinator, Joyce Roberts (PPM/MIB), Phone 202-208-6618. If at all possible, submit form by E-mail at - IOS.

ADDITIONAL PART OF RPL REGISTRATION: As an additional part of RPL application, the employee MUST also provide a one-page business resume to be kept on file at the employee's former SPO to assist in responding to RPL information requests from potential DOI employers and selecting officials. (11/2/95)

NOTICE TO APPLICANTS -- DOI REEMPLOYMENT PRIORITY LIST

The Department of the Interior Reemployment Priority List (RPL) is a program that provides permanent DOI employees who are separated due to RIF first consideration for reemployment in competitive service vacancies for which they are qualified in DOI and its bureaus within the commuting area. The DOI RPL is maintained in accordance with OPM regulations found at 5 CFR 330.

A DOI employee may submit an application for the RPL to their Servicing Personnel Office (SPO) as soon as he/she receives a notice of proposed separation, but must apply no later than 30 days after RIF separation date in order to be included on the RPL. The agency (SPO) has a maximum of 10 days to enter the employee application on the RPL.

The employee's application must include certain specified information such as job series, grade, tenure group and sub-group, duty station/commuting area, etc., and information on other conditions under which the employee will accept re-employment; e.g., different work schedules, availability for temporary or permanent appointment, etc., in order to be considered for the RPL. (Ref. 5 CFR 330.202) SEE THE OTHER SIDE OF THIS DOCUMENT FOR APPLICATION FORM.

Applicants are also notified that in order to be selected for a position, they must be qualified to fill it, and that their qualification for each series for which they are registered is subject to verification by the Servicing Personnel Office. Applicants who have questions concerning types of series and grades for which they are qualified, should seek assistance from their Servicing Personnel Office.

OPM regulations provide specific conditions for maintaining eligibility on the RPL and for being removed from eligibility on the RPL. An explanation of these conditions is available from your Servicing Personnel Office (SPO). All RPL applicants **MUST** keep their former SPO advised of their current address and telephone number where they may be contacted during their RPL eligibility period, and when they accept or decline an offer of employment. Applicants are notified that consideration for all jobs will be suspended for any individual who cannot be reached by the DOI. Consideration can be reinstated by submission of an updated application to the former SPO, but the original time period of RPL eligibility cannot be extended for any period of suspension.

Privacy Act Notice

Pursuant to requirements of Public Law 93-579, the Privacy Act of 1974, you are advised of the following: the authority for solicitation of this information is sections 1302, 3301, and 3304 of Title 5 of the United States Code; Reorganization Plan 3 of 1950; and Executive Order 10561. The principal purpose of this information is to establish eligibility and provide placement assistance for Interior Department employees who are eligible for the Department of the Interior Reemployment Priority List (RPL) as provided in 5CFR330. Your application form and/or the information you provide for the RPL will be disclosed to personnel offices and supervisors/managers throughout the Department of the Interior. Also, it may be referred to other Federal offices and state and local government agencies that have jobs for which you may be qualified. Disclosure of the information is completely voluntary. The only consequence of not providing this information is self-elimination for placement assistance through the RPL.

BUREAU OF INDIAN EDUCATION

Suspected Child Abuse/Neglect (SCAN) & Employee Incident Reporting Protocol

Revised 2009



TABLE of CONTENTS

CHAPTER 1: REPORTING REQUIREMENTS

- 1.0 Introduction
- 1.1 Legal Authorities
- 1.2 Notification of Responsibilities

CHAPTER 2: MANDATORY REPORTING

- 2.0 Introduction
- 2.1 Positions Designated as Mandatory Reporters
- 2.2 Reporting Requirements
- 2.3 Failure to Report

CHAPTER 3: TYPES OF ABUSE

- 3.0 Introduction
- 3.1 P.L. 101-630 Definitions
- 3.2 P.L. 101-647 Definitions
- 3.3 Reportable Incidents

CHAPTER 4: CHILD ABUSE REPORTING SUMMARY

- 4.0 Introduction
- 4.1 Reporting Format – SCAN Report
- 4.2 Reporting Format – Employee Incident Report
- 4.3 Administrative Reporting Responsibilities
- 4.4 Confidentiality
- 4.5 False Reporting
- 4.6 Protection of Involved Child False Reporting
- 4.7 Mandatory Segregation
- 4.8 Notification to Alleged Offender
- 4.9 Continuous Tracking of SCAN Reports through Closure
- 4.10 Closing a SCAN Report and Notification to Alleged Offender

CHAPTER 5: ADMINISTRATIVE INQUIRY TEAM

- 5.0 Goal of Administrative Inquiry Team
- 5.1 Purpose of Administrative Inquiry Team
- 5.2 Composition of Administrative Inquiry Team
- 5.3 Preliminary Inquiry
- 5.4 Recommendations from Administrative Inquiry Team

CHAPTER 6: REPORTING PROCEDURES

- 6.0 Introduction
- 6.1 SCAN Reports involving a BIE Employee
- 6.2 SCAN Reports involving a Non-BIE Employee
- 6.3 SCAN Reports involving a Grant-Contract School Employee
- 6.4 Employee Incident Reports
- 6.5 Non-BIE Employee Incident Reports

CHAPTER 7: TRAINING

- 5.0 Introduction
- 5.1 Awareness Training
- 5.2 Mandated Reporters
- 5.3 Supervisory Positions
- 5.4 Administrative Inquiry Team

APPENDICES

- Appendix A: Public Law 101-630, as amended, (Codified in 25 United States Code 3203, § 1169), *Indian Child Protection and Family Violence Prevention Act, as amended*
- Appendix B: Public Law 101-647, (Codified in 42 United States Code Section 13031), *Crime Control Act of 1990, Subchapter IV – Child Abuse Reporting*
- Appendix C: Sample - Awareness Information
- Appendix D: Suspected Child Abuse/Neglect Report (SCAN Report), *Revised 2009*
- Appendix E: Employee Incident Report Form
- Appendix F: Confidentiality Coversheet for SCAN or Employee Incident Report
- Appendix G: Notification to Alleged Offender - SCAN (BIE Employees, Contractors, Consultants only)
- Appendix H: Notification of Closure to Alleged Offender -- SCAN (BIE Employees, Contractors, Consultants Only)
- Appendix I: Administrative Inquiry Team Recommendation(s) Memorandum
- Appendix J: FAX Cover Sheet
- Appendix K: Follow-up Letter to Law Enforcement
- Appendix L: Notification to Alleged Offender – Employee Incident Report (BIE Employees, Contractors, Consultants only)
- Appendix M: Notification of Closure to Alleged Offender – Employee Incident Report (BIE Employees, Contractors, Consultants Only)

CHAPTER 1 Reporting Requirements

1.0 Introduction. The Assistant Secretary - Indian Affairs announced the establishment and release of the Child Protection Handbook *Protecting American Indian/Alaska Native Children*, in the summer of 1998. The Handbook contained important information regarding the reporting and administration of the requirements set forth in the Indian Child Protection and Family Violence Prevention Act and the Crime Control Act of 1990. The Handbook has been a valuable tool for the BIA (Bureau of Indian Affairs) and Tribes in administering their reporting requirements. However, since 1998, the Indian Child Protection and Family Violence Prevention Act had two significant amendments and the procedures outlined were general.

In August 2002, the Assistant Secretary - Indian Affairs established the Personnel Security and Suitability Program for Office of Indian Education Programs (OIEP) to increase accountability. As the program developed it became apparent that child abuse reporting had a significant impact on employee suitability. It was determined that the BIE (Bureau of Indian Education) needed specific step-by-step procedures for managers and principals; consistent reporting formats; consistency in what was being reported; and requirements for follow-up action. Training and a method for tracking and initiating pro-active action plans were also needed. The Bureau of Indian Education (BIE) Requirements and Protocol for Reporting Suspected Child Abuse/Neglect (SCAN Protocol) was developed specific to the BIE to supplement the Child Protection Handbook issued in 1998, as well as any amendments that were subsequently issued. In areas where the Child Protection Procedures conflict with the protocol, the SCAN Protocol will supersede.

To further BIE's relationships particularly with grant & contract schools, more consistent implementation of the BIE Suspected Child Abuse/Neglect (SCAN) & Employee Incident Reporting is necessary. It is therefore recommended that this protocol applies to all, including 638-Contract Schools. Specific step-by-step procedures for managers and principals; consistent reporting formats & what was being reported; and requirements for follow-up action were developed. These procedures will be followed by all bureau-operated schools as well as all grant and contract schools.

1.1 Legal Authorities

1.1.A. Public Law 101-630, as amended, (Codified in 25 United States Code 3203, § 1169), *Indian Child Protection and Family Violence Prevention Act, as amended*, requires that any person identified as a Mandated Reporter who knows or has a reasonable suspicion that a child has been abused in Indian country, must report the information to the local protective services agency or local law enforcement agency. Further, if the Mandated Reporter knows or has a reasonable suspicion that actions are being taken, or are going to be taken, that would reasonably be expected to result in the abuse of a child in Indian country he/she must report the information to the local protective services agency or local law enforcement agency. Public Law 101-630 also specifically identifies positions designated as Mandatory Reporters, outlines the penalties for Mandated Reporters who fail to immediately report such abuse or actions described to the proper authorities, and the penalties for supervisors, or those having authority over Mandated Reporters, who prevent or inhibit a Mandated Reporter from making the proper reports (*Appendix A*).

1.1.B. Public Law 101-647, (Codified in 42 United States Code Section 13031), *Crime Control Act of 1990, Subchapter IV – Child Abuse Reporting*, requires that any person who, while in a professional capacity or activity on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, shall as soon as possible make a report of the suspected abuse to the agency designated to receive the report (*Appendix B*).

1.2 Notification Responsibilities

Each BIE employee will receive notice of their responsibilities as a Mandated Reporter of child abuse upon initial employment and annually thereafter. The notification will be in written form and the employee will sign that they received a copy of the notice. At a minimum, the notice will include: (1) all positions designated as Mandatory Reporters; (2) when a Mandated Reporter must report child abuse or suspected child abuse; (3) how the Mandated Reporter is to report the information; and (4) the ramifications for not reporting child abuse or suspected child abuse (*Appendix C*).

CHAPTER 2 Mandatory Reporting

2.0 Introduction

Public Law 101-630 (codified in 25 U.S.C. 3203 § 1169) and Public Law 101-647 (codified in 42 U.S.C. § 13031) require that specific individuals working in fields that come into contact with children who know or have a reasonable suspicion that a child was abused in Indian country, Federal land or federally operated facility must immediately report such abuse. This chapter covers the requirements for Mandatory Reporters.

2.1 Positions Designated as Mandatory Reporters

The following are the positions that are designated as Mandatory Reporters within BIE:

- Teachers
- School counselors
- Instructional aides
- Teacher's aides
- Teacher's assistants
- Bus drivers
- Administrative officers
- Child welfare and attendance supervisors
- Truancy officers
- Child day care workers
- Psychiatrists
- Psychologists
- Psychological assistants
- Licensed or unlicensed marriage, family, or child counselors

Additional Mandated Reporters that may have an impact on BIE positions include:

- Nurses/physicians/surgeons
- Dentists/dental hygienists
- Optometrists
- Medical examiners
- EMTs/paramedics
- Health care providers
- Head Start teachers
- Public assistance workers
- Group home, day care, residential workers
- House parent/dorm staff
- Social workers
- Mental health personnel
- Law enforcement officers
- Probation officers
- Juvenile rehabilitation or detention workers
- Personnel responsible for enforcing laws and judicial orders

2.1.A. Persons engaged in the following professions and activities are also subject to the mandatory reporting of child abuse or suspected abuse:

- Alcohol or drug treatment personnel;
- Persons performing a healing role or practicing the healing arts;
- Guidance personnel;
- School officials, i.e., anyone who has management oversight of a school; and
- School administrators, i.e., anyone working in an official capacity at a school

2.1.B. In addition to the positions and activities specifically identified in the above sections, all Federal employees and contractor employees within BIE also have a *duty to report* any reasonable suspicion of child abuse for any Indian child for which they have responsibility.

2.2 Reporting Requirements

Mandated Reporters who learn of facts that give reason to suspect that a child has suffered an incident of child abuse; know or have a reasonable suspicion that a child was abused in Indian country; OR know that actions are being taken OR will be taken that would reasonably be expected to result in the abuse of a child in Indian country, MUST immediately contact local law enforcement, local child protective services or the Indian Country Child Abuse Hotline. The hotline number is 1-800-633-5155.

2.3 Failure to Report

Mandated Reporters who, while engaged in a professional capacity or activity on Federal land or in federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, as defined in Public Law 101-630 and Public Law 101-647, and fails to make a timely report as required, shall be guilty of a Class B misdemeanor. The person may also be fined up to \$5,000 and/or imprisoned up to 6 months in jail.

Any supervisor or person in authority who inhibits or prevents a Mandated Reporter from making a report may be fined up to \$5,000 and/or imprisoned up to 6 months in jail.

In instances where it has been determined that an BIE employee has failed to report child abuse as required, BIE management will take disciplinary action against the employee to include removal. BIE management will also take action against employees who fail to report child abuse in a timely manner. Timely is defined as within the timeframes established in Chapter 6.

Chapter 3: Types of Abuse

3.0 Introduction

Child abuse can take many forms; however, there are four major types of abuse that must be reported. When completing a SCAN Report it is crucial that the individual completing the report indicates the specific type of abuse for which they have knowledge or suspicion. For reporting purposes, any knowledge of or suspicion of sexual abuse, physical abuse, emotional abuse, or physical and/or emotional neglect, must be documented and if the abuse meets the definitions outlined in Public Law 101-630 and/or Public Law 101-647, the abuse must be reported to the proper law enforcement and child protection authorities.

The definition of abuse can vary depending on the perspective of the individual. Public Law 101-630 and Public Law 101-647 define 'abuse' as follows:

3.1 Public Law 101-630 Definitions

Any case in which a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and such conditions that are not justifiably explained or may not be the product of an accidental occurrence; and any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact or prostitution.

Child abuse does include child neglect. Child neglect includes but is not limited to negligent treatment or maltreatment of a child by a person, including a person responsible for the child's welfare, under circumstances which indicate that the child's health or welfare is harmed or threatened. A 'child' is defined as an individual that is not married, and has not attained 18 years of age.

3.2 Public Law 101-647 Definitions

The term "child abuse" means the physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child. The term "child abuse" shall not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty. Additionally, the following definitions are provided:

- The term "physical injury" includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe bruising or serious bodily harm;
- The term "mental injury" means harm to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors, which may be demonstrated by a change in behavior, emotional response or cognition;
- The term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;
- The term "sexually explicit conduct" means actual or simulated – (1) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or

oral-anal contact, whether between persons of the same or of opposite sex; sexual contact means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person; (2) bestiality; (3) masturbation; (4) lascivious exhibition of the genitals or pubic area of a person or animal; or (5) sadistic or masochistic abuse;

- The term "exploitation" means child pornography or child prostitution;
- The term "negligent treatment" means the failure to provide, for reasons other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of the child.

3.3 Reportable Incidents

The BIE established two distinct categories for reporting with SCAN as the more serious and Incident Report as the least.

3.3.A. SCAN - Where it is clear that abuse or suspected abuse has occurred **to a student by anyone** and the circumstances meet the definition of child abuse and/or the circumstance poses an immediate danger or short-term threat to a child, the incident will be considered a SCAN which includes but is not limited to:

- Any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, sexually explicit conduct, or prostitution;
- Evidence of physical injury such as severe skin bruising and/or bleeding after being struck, thrown, or treated inappropriately;
- Evidence of burns, fracture of any bone, subdural hematoma (head injuries), soft tissue swelling, and/or such conditions that are not justifiably explained or may not be the product of an accidental occurrence;
- Confirmed or suspected malnutrition or failure to thrive;
- Confirmed or suspected fighting, threatening, or inflicting bodily harm on a student;
- Any situation that is comparable in nature to the examples and situations identified above.

Also, allegations that are not clear that they meet the definition of "abuse" and/or the circumstance poses a near- or long-term threat to a child, which may include physical contact, are also considered SCAN reports. They include but are not limited to:

- Corporal punishment, defined as punishment administered by an adult to the body of a child ranging in severity from a slap to a spanking;
- Incidents of grabbing or pushing a child, grabbing a child by their clothing, assaulting a child, or pulling a child's hair in such a way that is harmful and/or intentional. Only those incidents exercised to ensure a child's safety are considered safety measures therefore are not reportable offenses.
- Lack of parental supervision/care:
 - Child appears to be treated in a neglectful way such as clothing inappropriate; lack of needed medical and/or dental care;
 - School-age child (1st – 6th grade) left without adequate supervision for extended periods during day or night such as periods exceeding 2 hours or overnight (time of day and reason child is left alone must be taken into consideration) -- this could apply to students in the dormitory.

- Pre-school child left without any supervision.

3.3.B. Employee Incident Report – Activities that occur that do not meet the definitions of “abuse” where no physical contact occurred and which involve employees are considered an “Incident”. This includes but is not limited to:

- BIE employee engaged in discourteous conduct involving a student, such as using inappropriate language, making inappropriate comments of a non-sexual manner, calling names, insulting or humiliating a child, shouting, cursing, etc.
- As stated in 62 BIAM 9.12...“Corporal punishment of all kinds, and solitary confinement, or anything which smacks of imprisonment calculated to bring shame and humiliation upon pupils, is prohibited and may be made the basis for charges with a view to possible dismissal”.

3.3.C. Other. Incidents that do not meet the definition of child abuse but are criminal in nature should be reported directly to local law enforcement. If BIE employees are involved in such incidents they shall also be reported to the BIE Program Specialist (SCAN) in writing via an interoffice memorandum, and who will coordinate appropriately with Employee/Labor Relations Section. Examples of criminal incidents include, but are not limited to:

- Confirmed or suspected drinking with, transferring, or selling intoxicants to students on or off BIE/government premises;
- Confirmed or suspected transferring or selling marijuana, narcotics, or dangerous drugs to students on or off BIE/government premises;
- Confirmed or suspected transferring or selling prohibited items such as cigarettes to students on or off BIE/ government premises;
- Any situation that is comparable in nature to the examples and situations identified above.

3.3.D. When an allegation of sexual abuse has been raised against another student, it will be filed immediately as a formal SCAN report. All other abuse cases will be handled in accordance with the procedures already in place at the school.

Chapter 4 Child Abuse Reporting Summary

4.0 Introduction

It is mandated that all knowledge of or suspected child abuse be reported to the local law enforcement agency or to child protection services. However, the report must meet the definitions of child abuse contained within Public Law 101-630 and Public Law 101-647 to be considered “abuse”. Since 1998, when the Child Protection Handbook was released, numerous reports of suspected occurrences of child abuse have been documented. The seriousness of these reports of alleged child abuse varied greatly. There were reports as serious as sexual molestation to as minimal as an employee engaging in discourteous verbal conduct involving a student.

The BIE developed a tool for Management to ensure all incidents that may negatively impact children continue to be documented, but at the same time, ensure that only the incidents that meet the definitions of child abuse are reported to law enforcement or child protection authorities. BIE also began using Administrative Inquiry Teams (AIT, to be discussed in Chapter 5) to assist management to ensure SCAN Reports are accurate and complete. AITs provide needed information and recommendations to assist management in making prompt decisions regarding whether an individual may be a threat to Indian children.

4.1 Reporting Format – SCAN Report

The Suspected Child Abuse/Neglect Report, *Revised in 2009*, is used for documenting incidents of suspected child abuse within the BIE. The report will be referred to as the “SCAN Report” (*Appendix D*) along with supporting documents; electronic forms are available at the BIE website. A report of suspected abuse is the equivalent of a request to an investigation by local law enforcement and/or child protection authorities. The actual investigation is the lawful assessment by an authorized individual to determine if a harmful condition exists involving a minor and what emergency action should be undertaken for the safety of the child. The BIE’s role is to ensure the suspected child abuse is reported in a manner that is clear and as accurately as possible so an investigation is initiated by proper authorities.

When a SCAN Report is filed, it is critical that the report be completed accurately and all appropriate notifications made accordingly. Of equal importance is the action taken after the SCAN Report has been completed. Depending on the seriousness, some action must be taken almost simultaneously to completing the SCAN Report.

A SCAN Report will be completed when a Mandated Reporter, while engaged in a professional capacity or activity, learns of facts that give reason to suspect that a child has suffered an incident of child abuse. The Mandated Reporter does not have to prove the suspected child abuse has occurred but they must describe the behavior or physical signs that led them to suspect a child has been abused. Persons who make a report of child abuse based upon their reasonable belief and in good faith are immune from civil and criminal liability.

The Mandated Reporter will contact their immediate supervisor and work with their supervisor to complete the report. If the alleged offender is the Mandated Reporter’s immediate supervisor or if the Mandated Reporter has concerns about reporting directly to their immediate supervisor, they may submit the SCAN Report directly to the BIE Program Specialist (SCAN) Office. The

report must be completed within the Mandated Reporter's regularly scheduled workday and the SCAN Report must be submitted to the BIE Program Specialist (SCAN) Office within the established timeframes. This includes those reports that are non-staff related. The timeframes for reporting are identified in Chapter 6 and specific instructions on how to complete the SCAN Report.

4.2 Reporting Format – Employee Incident Report

The Employee Incident Report form (*Appendix E*) will be used to document non-physical incidents involving employee(s). The Principal/Administrator will intervene immediately to establish the validity of the report and resolve the issue(s) at the lowest level and as expeditiously as possible. A copy of the initial report with follow-up information must still be submitted to the Program Specialist (SCAN).

4.3 Administrative Reporting Responsibilities

4.3.A. *BIE Program Specialist (SCAN)*. The Program Specialist (SCAN) will review the merits of the incident and confirm the appropriate type of abuse is indicated; maintain the SCAN Tracking Database; take appropriate follow-up action; and serve as the point-of-contact for all Child Protective Services and Law Enforcement Agencies, ELO and School Safety Specialists regarding all reports.

4.3.B. *Education Line Officer (ELO)*. The ELO will ensure that the incident is reported in a timely manner, the proper authorities notified; the SCAN Report contains all necessary information, and ensure the reporting Principal/Administrator receives support necessary to address the incident. Other concerns will be addressed and resolved by the ELO.

4.3.C. *Employee/Labor Relations Team*. The designated human resources specialist in concert with local management will make an assessment regarding whether the incident affects the employee's status. Follow-up action will be recommended and carried out appropriately. Copies of written notification of any disciplinary action will be provided to the BIE Program Specialist (SCAN) by the Employee/Labor Relations staff. Grant-Contract Schools may coordinate with their respective Human Resource rules & staff to make such determination and/or intervention. It is recommended that the established BIE SCAN Reporting Protocol be utilized as a guide for reporting.

4.4 Confidentiality

All cases of child abuse allegations shall be treated within the guidelines of Federal laws protecting children, employees, and all parties involved. Confidentiality must be a priority throughout the process. The Mandated Reporter may remain anonymous, but in order to document that a Mandated Reporter did not fail to report child abuse in accordance with Federal law, and so that law enforcement and child protective services can contact the Mandated Reporter, if they need additional information, a SCAN Report must be completed. The SCAN Report has a section regarding protecting the confidentiality of individuals involved. On that section, the Mandatory Reporter must indicate whether they want their identity protected, and initial their intent on the SCAN Report. If the Mandated Reporter indicates that they want their identity protected, a cover sheet indicating a protected source must be used to cover page 1 of the SCAN & Employee Incident Report (*Appendix F*). The identity of all reported victims must always be protected and must not be disclosed to anyone who does not have a need to know.

Individuals who have a need to know are limited to direct line supervisors of the individuals involved, Employee/Labor Relations staff, the Program Specialist (SCAN), School Safety Specialists, Law Enforcement representatives, and Child Protection Services personnel.

Even if the Mandated Reporter indicates that they do not want their identity protected, all SCAN Reports are considered “*Administratively Restricted*”. Distribution, copying, or unauthorized use of the information contained in the SCAN Report or official SCAN Report file is strictly prohibited. The identity of the person making a child abuse report, as part of their official duties, will not be disclosed to individuals who do not have a need to know without written consent of the individual. However, an investigative agency (law enforcement or social services) may provide information, records and the name of the informant without written consent to a court of competent jurisdiction or an employee of a tribe, state or the Federal Government who needs to know the information in the performance of his/her duties.

4.5 Bad Faith Reporting

A BIE employee who knowingly files a false report will be addressed accordingly by Management. Where a conflict-of-interest arises between employees, the Principal/Administrator will intervene and take all proper action(s) to resolve. There is no immunity from civil or criminal liability for Bad Faith Reporting and associated action.

4.6 Protection of Involved Child

An initial assessment must be completed by the Principal/Administrator, ELO, and/or appropriate personnel at the time of the incident. The assessment will address whether there is a need for protection of the child and what action is required to ensure the protection and well-being of the child. Depending on the seriousness and the instruction received from local law enforcement or child protection services, action may include, but not be limited to medical attention, counseling services, removal or protective placement, contacting relatives, etc. All arrangements to protect the child shall be made immediately in conjunction with law enforcement and child protection services.

4.7 Mandatory Segregation

4.7.A. An employee who has had a SCAN report filed against them will immediately be removed from contact with or control over all children by re-assignment to another position; if that is not possible, the individual will be placed on administrative leave until clearance is established. If the employee is placed on administrative leave, they will be advised that they must be available at any time for contact by local law enforcement, child protections services and/or the respective Principal/Administrator.

4.7.B. For Employee Incident Reports, segregation is based on circumstances which are to be reviewed on an individual basis by the Principal/Administrator. A meeting between the Principal/Administrator and Human Resources may be convened immediately to determine the need for segregation with removal temporary pending an inquiry. Such cases should be handled administratively first by the Principal/Administrator with Human Resources, as needed. Written notification(s) should be issued immediately with copies forwarded to the Program Specialist (SCAN).

4.7.C A non-employee with an BIE agreement or contract such as a contractor or consultant, against whom an allegation of child abuse has been raised, will be

immediately segregated from the child involved. The individual will also be immediately removed from contact with or control over all children indefinitely until the incident is resolved. The individual will be advised that they must be available for contact by local law enforcement, child protection services and/or the Principal/ Administrator as part of the post report process.

4.7.D A non-employee not directly associated with BIE such as a volunteer, relative, vendor, visitor, against whom an allegation of child abuse has been raised, will be immediately segregated from the child involved. The individual will also be immediately removed from contact with or control over all children and denied any unescorted privileges to BIE facilities indefinitely until the incident is resolved. These precautions need not be taken if the individual has no contact with children for whom BIE is responsible or if the allegations of abuse occurred on non-Federal property during a non-Federally sponsored activity.

4.8 Notification to Alleged Offender

An employee against whom an allegation of child abuse has been raised, must be notified in writing of the allegation and the resulting actions to occur. This notification [SCAN (*Appendix G*) or Employee Incident (*Appendix L*)] will include the date of the SCAN Report, the type of abuse alleged, a brief summary of the allegation, the resulting actions. The role of the AIT will only be included in SCAN case notifications. The resulting actions refer to the mandatory segregation, the expected duration of administrative leave, the possibility that the SCAN Report may result in action that may impact their employment status and/or their suitability to work with children. The employee will sign a receipt page to document that they were informed of the closure of the SCAN Report. A copy of the notification to the alleged offender will be provided to the BIE Program Specialist (SCAN) for filing.

Non-employees with BIE agreements or contracts such as contractors or consultants, against whom allegations of child abuse have been raised, must be notified in writing of the allegation and the resulting actions to be taken. The notification of the allegation will include the date of the SCAN Report, the type of abuse alleged, a brief summary of the allegation, and the role of the AIT. The resulting actions refer to the mandatory segregation, expected duration of denial of contact or control over children if the allegations are substantiated, the possibility that the SCAN Report may result in action that may impact their volunteer/employment status and/or their suitability to work with children. Non-employees not directly associated with BIE (e.g., volunteers, relatives, vendors, visitors, etc.) against whom allegations of child abuse have been raised, will not be issued any notices in writing unless deemed necessary by the Principal/Administrator.

4.9 Continuous Tracking of SCAN Reports through Closure

The BIE Program Specialist (SCAN) is responsible for tracking SCAN Reports through closure. Upon initial receipt of a SCAN Report, the BIE Program Specialist (SCAN) will log the SCAN Report into a tracking database and monitor it as needed. On a weekly basis the status of SCAN Reports will be reviewed. Any SCAN Reports that do not meet the action timelines outlined in Chapter 6 will be reported to the appropriate ELO.

4.10 Closing a SCAN Report and Notification to Alleged Offender

A closure notification [SCAN (*Appendix H*) & Employee Incident (*Appendix M*)] will be issued by the Principal/Administrator to the employee against whom an allegation of child abuse was raised. The notification will be issued in person so the Principal/Administrator can review the contents of the notification with the employee. The employee will sign a receipt page to document that they were informed of the closure of the SCAN Report. The signature receipt along with a copy of the notification will be included in the official SCAN Report file with a copy forwarded to the BIE Program Specialist (SCAN). This final action closes the SCAN Report. If administrative or proactive action is proposed or corrective action is required that affects the employee, it is the responsibility of the Principal/Administrator to ensure these action(s) are carried out.

Chapter 5 Administrative Inquiry Team

5.0 Goal of Administrative Inquiry Teams (AIT). The goal of the AIT is to assist management in ensuring the school continues to function efficiently and effectively without further impact on the involved child or any other children.

5.1 Purpose of Administrative Inquiry Team. The purpose of an AIT is to review the merits of the SCAN Report, review the information for completeness and provide recommendations to management when a BIE employee is involved. The AIT *will not* conduct investigation of any incident. Investigation is the responsibility of law enforcement authorities and/or child protection services.

5.2 Composition of Administrative Inquiry Team. The AIT will be comprised of at least three professional state licensed individuals (when possible) who have been appointed by the Principal/Administrator. It is at the discretion of the Principal/Administrator to determine who will serve on their AIT for their respective school. Further, it is recommended that by September 30 of each year, the ELO will ensure the respective Principal/Administrator has appointed three members to the AIT with the goal of appointing two new members annually to ensure as many staff as possible are familiar with the SCAN reporting procedures. The ELO, and/or the respective Principal/Administrator, will determine when to convene the AIT. These meetings may be best convened after-school unless warranted immediately. The ELO must ensure that the team members are properly trained and available so they can initiate an immediate inquiry following the completion of a SCAN Report. The AIT will be trained in conducting administrative inquiries, understanding the guidelines for recommending return of employees to their positions, and the development of proactive measures to prevent reoccurrences of child abuse/incidents that negatively impact children. This could occur concurrently with management's training as provided regularly by the BIE staff. The Principal/Administrator will coordinate with Employee/Labor Relations and/or the BIE Program Specialist (SCAN) as necessary.

The Administrative Inquiry Team will:

- Strictly adhere to confidentiality when addressing specific cases.
- Independently confirm the appropriate type of abuse indicated on the SCAN Report when a BIE employee is involved.
- Confirm the SCAN Report form is fully completed.
- Ensure all the proper notifications are made within stated timeframes.
- Gather additional information to ensure the SCAN Report is complete. Additional information may include but is not limited to collection of names of witnesses, collection and/or clarification of written statements from the alleged offender, and/or victim, etc. The team members will not investigate the allegations but ensure all the required information is provided on the SCAN & Employee Incident Report forms.

5.3 Preliminary Inquiry. A preliminary inquiry will be conducted as follows:

- Immediately after the Principal/Administrator becomes aware of an incident that requires the completion of a SCAN Report involving a BIE employee, they must notify the members of the AIT that a SCAN Report has been initiated.
- As many team members that are available will convene and at the completion of pages 1-4 of the SCAN Report the team member(s) will review the merits of the

incident. The ELO must ensure that a contingency plan is devised to ensure coverage when AIT members are out of the office or on leave.

- Gather information utilizing the same tools as other team members. Further, all notes & other forms of documentation that is gathered during an inquiry will be submitted to the Principal/Administrator immediately after an inquiry is completed.
- At the conclusion of the preliminary inquiry, the AIT will make recommendations to the Principal/Administrator relating to the specific SCAN Report. The recommendations must address returning the individual to their position and proactive measures to prevent a similar incident from occurring in the future. It is recommended a minimum of three working days for the AIT to complete their inquiry; however, *24 hours* is preferred.

5.3.A. Administrative Inquiry Team for Non-BIE Employees

Although administrative inquiries will be conducted for contractors and consultants, administrative inquiries will not be conducted on non-employees not directly associated with BIE such as volunteers, relatives, vendors, or visitors. In these cases, the Principal/Administrator will document these reports and take appropriate action to ensure the child involved is safe and the individual is denied access to children for which BIE is responsible.

5.4 Recommendations from Administrative Inquiry Team (AIT)

The AIT will document their recommendations on a standardized memorandum format to the Principal/Administrator (*Appendix I*). The memorandum will confirm the type of alleged abuse and document other findings. The memorandum will also include the AIT's proposed proactive and/or corrective measures to prevent a similar incident from occurring in the future. Copies of the memorandum will be forwarded to the Principal/Administrator and BIE Program Specialist (SCAN) within three working days from the day the inquiry was initiated.

Chapter 6 Reporting Procedures

6.0 Introduction. This section covers the procedures and logistics for reporting child abuse and/or suspected child abuse within BIE.

6.1 SCAN Reports involving a BIE Employee

- A. When a SCAN case is identified, all precise & pertinent information regarding the case will be obtained by the employee who made the initial contact with the child, and who has the information first-hand -- this employee is therefore deemed the designated mandatory reporter. The employee, working with the Principal/Administrator will ensure that pages 1 through 4 of the SCAN Report are completed thoroughly as soon as possible but no later than 24 hours after the disclosure of the incident, and with as much information as possible.
- B. The Principal/Administrator will convene the AIT to:
1. Notify Local Law Enforcement **within one hour** of the mandatory reporter completing pages 1 through 4 of the SCAN form. The AIT must ensure page 5 (Tracking of Notifications) of the SCAN Report is thoroughly completed and it clearly indicates specific contact information for law enforcement -- the name of the person contacted, their title, telephone number, and the dates these occurred. If a Law Enforcement report number is available, it should also be included on page 5.
 - Notification must be initiated verbally and followed-up in writing by faxing pages 1 through 5 of the SCAN Report utilizing the designated SCAN FAX Cover Sheet (Appendix J). It must be confirmed that the fax number is correct and the intended recipient is available to receive the facsimile transmission.
 2. Notify Child Protective Services **within one hour** of the mandatory reporter completing pages 1 through 4 of the SCAN Report. The AIT must ensure page 5 (Tracking Notification) of the SCAN Report is thoroughly completed and clearly indicates the specific Child Protective agency contacted -- the name of the person contacted, their title, telephone number, and the dates these occurred.
 - Notification must be initiated verbally and followed-up in writing by faxing pages 1 through 4 of the SCAN Report utilizing the designated SCAN FAX Cover Sheet (Appendix J). It must be confirmed that the fax number is correct and the intended recipient is available to receive the facsimile transmission.
 3. Notify the Program Specialist (SCAN) immediately & submit a copy of the SCAN Report to the Program Specialist (SCAN) office for review and the appropriate logging/tracking and follow-up action as necessary.
- C. The Program Specialist (SCAN) will notify Human Resources Dept. (BIE) **within the**

same day by submitting a copy of the SCAN Report to the appropriate Employee/Labor Relations staff for advice and consultation on appropriate administrative action required.

- D. **Within 24 hours of receipt**, Employee/Labor Relations will verbally contact the submitting Principal/Administrator and advise them of the appropriate action that may be taken as a result of the conduct in question by the BIE employee. Resulting action will be documented accordingly.
- E. The Program Specialist (SCAN) will inform the School Safety Specialists who will inform the respective ELO of the report within 24 hours.
- F. The School Safety Specialists will verbally notify/inform the appropriate Associate Deputy Director and apprise them of serious SCAN reports.
- G. If/when a copy of the report is requested, the BIE Program Specialist (SCAN) will make the necessary distribution.
- H. Upon completion of all notifications, the Principal/Administrator will ensure the original SCAN Report is maintained in the official SCAN Report file at the school.
- I. The Principal/Administrator will issue Notification to Alleged Offender (*Appendix G*) to an employee against whom an allegation of child abuse has been raised; the written notification addresses the allegation and the resulting actions to occur. It further includes the date of the SCAN Report, the type of abuse alleged, and the resulting actions and the role of the AIT. The resulting actions refer to the mandatory segregation, the expected duration of administrative leave if the allegations are substantiated, the possibility that the SCAN Report may result in action that may impact their employment status and/or their suitability to work with children. The employee will sign a receipt page to document that they were informed of the notice of the SCAN Report. A copy of the notification to the alleged offender will be provided to the BIE Program Specialist (SCAN) for filing.
 - Non-employees with BIE agreements or contracts such as contractors, consultants or volunteers, against whom allegations of child abuse have been raised, must be notified in writing of the allegation and the resulting actions to be taken. The notification of the allegation will include the date of the SCAN Report, the type of abuse alleged and a brief summary of the allegation. The resulting actions refer to the mandatory segregation, expected duration of denial of contact or control over children if the allegations are substantiated, the possibility that the SCAN Report may result in action that may impact their volunteer/employment status and/or their suitability to work with children.
 - Non-employees not directly associated with BIE (e.g., relatives & visitors) against whom allegations of child abuse have been raised, will not be issued any notices in writing unless deemed necessary by the Principal/Administrator.
- J. Pending the outcome of the report, the Principal/Administrator will ensure the employee is re-assigned with no contact with children as a first option, and Administrative Leave as an alternative, until clearance is established.

- K. If law enforcement indicates that prosecution is likely or imminent, the employee will remain in re-assignment, or remain on administrative leave until official charges are filed. Upon receipt of a notice that the individual has been indicated or otherwise officially charged with an offense in which imprisonment may be imposed, an indefinite suspension and/or removal action will be initiated.
- The employee's official security file will also be pulled and an assessment made regarding whether the incident affects the employee's suitability.
- L. If law enforcement notifies management that the allegations are unsubstantiated, the Principal/Administrator will return the employee to duty after consultation with Employee/Labor Relations and BIE Program Specialist (SCAN). However, administrative action may still be required for employee misconduct. Additionally, the employee's conduct although it may not have risen to the level of a violation of law may still have impact on the individual's suitability.
- M. The Principal/Administrator will issue a Notification of Closure to Alleged Offender (*Appendix H*) to the employee against whom an allegation of child abuse was raised after law enforcement notification. The notification will be issued in person so the contents of the notification can be reviewed with the employee. The employee will sign a receipt page to document that they were informed of the closure of the SCAN Report. The signature receipt along with a copy of the notification will be included in the official SCAN Report file with a copy forwarded to the BIE Program Specialist (SCAN). This final action closes the SCAN Report. If administrative or proactive action is proposed or corrective action is required that affects the employee, it is the responsibility of the Principal/Administrator to ensure these action(s) are carried out.
- N. For individuals who have been on Administrative Leave due to a SCAN Report for more than five days, the following will apply:
1. Probationary Employees - The Principal/Administrator may take action to terminate the employee during their probation period if the decision is considered in the best interest of the BIE.
 2. Non-Probationary Employees – The employee may be detailed pending an investigation to another position as long as the employee does not have contact with or control over children. Contract employees who have an unresolved SCAN Report and have been deemed a threat to children requiring prolonged Administrative Leave or administrative detail, may not have their contract renewed.
- O. If follow-up with Law Enforcement is necessary, the Principal/Administrator will issue a written letter referencing the original SCAN Report that was filed. The Follow-up Letter to Law Enforcement Services (*Appendix K*) requests a status of the report. If no investigation has been initiated or a report is not yet completed, the Principal/Administrator will document the current status of the investigation in the official file. The Principal/Administrator will issue follow-up letters on a weekly basis until it is resolved with copies forwarded to the Program Specialist (SCAN).
- P. The Program Specialist (SCAN), or their designee, will be the **only** contact with all Child Protective Service Agencies.

- Q. When the SCAN Report is closed and the SCAN Closure Notification form is completed, the Principal/Administrator will forward the official SCAN file to the BIE SCAN Office which serves as the official repository for SCAN files. The official file should include but is not limited to:
1. SCAN report (pages 1-5);
 2. Request for Review Memorandum to Law Enforcement Services (if utilized);
 3. Notification to Alleged Offender;
 4. Follow-up Letter to Law Enforcement (if utilized);
 5. SCAN Closure Notification;
 6. Any direction received from local law enforcement and/or child protective services as a result of the submission of the SCAN Report;
 7. Copies of fax transmittals and receipts;
 8. Information obtained or developed by the AIT; and
 9. Victim/Witness/Alleged Offender's statements, etc.
- R. If a temporary file, also known as suspense file exists at the school, the Principal/Administrator will ensure it is destroyed after the SCAN case is closed; such files should not be maintained after case closure. The file will be forwarded to the BIE Program Specialist (SCAN) for review and final disposition.

6.2 SCAN Reports involving a non-BIE Employee

1. When a SCAN case is identified, all precise & pertinent information regarding the case will be obtained by the employee who made the initial contact with the child -- this employee is therefore deemed the designated mandatory reporter. The employee, working with their Principal/Administrator will ensure that pages 1 through 4 of the SCAN Report are completed thoroughly.
2. The Principal/Administrator will along with the Mandated Reporter will:
 1. Notify Local Law Enforcement **within one hour** of the mandatory reporter completing pages 1 through 4 of the SCAN form. The Principal/Administrator must ensure page 5 (Tracking Notification) of the SCAN Report is thoroughly completed and clearly indicates contact information at law enforcement -- the name of the person contacted, their title, telephone number and the dates these occurred.
 - a. Notification must be initiated verbally and followed-up in writing by faxing pages 1 through 5 of the SCAN Report utilizing the designated SCAN FAX Cover Sheet (Appendix J). It must be confirmed that the fax number is correct and the intended recipient is available to receive the facsimile transmission.
 2. Notify Child Protective Services **within one hour** of the mandatory reporter completing pages 1 through 4 of the SCAN Report. The Principal/Administrator must ensure page 5 of the SCAN Report is thoroughly completed and clearly indicates the specific Child Protective agency contacted -- the name of the person contacted, their title, telephone number, and the dates these occurred.

- a. Notification must be initiated verbally and followed-up in writing by faxing pages 1 through 4 of the SCAN Report utilizing the designated SCAN FAX Cover Sheet (Appendix J). It must be confirmed that the fax number is correct and the intended recipient is available to receive the facsimile transmission.
 - b. Once a report has been forwarded to Child Protective Services, no follow-up action is pursued by BIE.
3. Notify the Program Specialist (SCAN) immediately by phone & submit a copy of the SCAN Report to the Program Specialist (SCAN) office for review the appropriate logging/tracking and who will take action, as necessary.
 4. Upon completion of all notifications, the Principal/Administrator will ensure that the original SCAN Report is maintained in the official SCAN Report file at the school.
 5. Follow-up for Non-Employees (Contractor/Consultants) - A copy of the report will be forwarded to the BIE Program Specialist (SCAN) for logging/tracking, further review and who will take appropriate action as necessary. Copies may be forwarded to the Contracting Officer for advice and consultation on appropriate administrative action required, if deemed necessary.

6.3 SCAN Reports involving a Grant-Contract School Employee

- A. When a SCAN case is identified, the established BIE Suspected Child Abuse/Neglect (SCAN) & Employee Incident Reporting Protocol shall be utilized as a guide for reporting. This includes ensuring all precise & pertinent information regarding the case be obtained by the employee who made the initial contact with the child and who has the information first-hand -- this employee is therefore deemed the designated mandatory reporter. The employee, working with the Principal/Administrator will ensure that pages 1 through 4 of the SCAN Report are completed thoroughly.
- B. Notify the Program Specialist (SCAN) immediately by phone & submit a copy of the SCAN Report to the Program Specialist (SCAN) office for review the appropriate logging/tracking and who will take action, as necessary.

6.4. Employee Incident Reports

1. When an incident is identified, all precise & pertinent information regarding the case will be obtained by the employee who made the initial contact with the child and who has the information first-hand – the employee is therefore deemed the designated mandatory reporter. The employee, working with the Principal/Administrator will ensure that the Employee Incident Report Form (*Appendix E*) is completed thoroughly.
2. The Principal/Administrator will notify the BIE Program Specialist (SCAN) immediately & submit a copy of the SCAN Report for review, the appropriate logging/tracking and follow-up take action as necessary.
3. The BIE Program Specialist (SCAN) will notify BIE Employee/Labor Relations of the

incident within 24 hours of completing the Employee Incident Report Form.

4. Employee/Labor Relations will contact the submitting Principal/Administrator within 24 hours of receipt and advise them of the appropriate action that may be taken as a result of the conduct in question by the BIE employee. Resulting action will be documented accordingly.
5. The Principal/Administrator will issue Notification to Alleged Offender (*Appendix L*) to an employee against whom an Incident was raised; the written notification addresses the allegation and the resulting actions to occur. It further includes the date of the Employee Incident Report, the type of incident alleged, a brief summary of the allegation, the resulting actions and the role of the Principal/Administrator.
 - The resulting actions refer to the mandatory segregation, expected duration of administrative leave, if warranted, the possibility that the Employee Incident Report may result in action that may impact their employment status and/or their suitability to work with children. The employee will sign a receipt page to document that they were informed of the notification of the Employee Incident Report. A copy of this notification will be provided to the BIE Program Specialist (SCAN) for filing.
6. Principal/Administrator will coordinate with Employee/Labor Relations for advice and consultation on appropriate administrative action required. A copy of the recommendations will be forwarded to the BIE Program Specialist (SCAN) for review and take appropriate action as necessary.
7. If the Principal/Administrator determines the allegations are unsubstantiated, the employee will be returned to duty after consultation with Employee/Labor Relations and BIE Program Specialist (SCAN). However, administrative action may be required for employee misconduct, if warranted. Additionally, the employee's conduct although it may not have risen to the level of a violation of law may still have impact on the individual's suitability.
8. The Principal/Administrator will issue a Notification of Closure to Alleged Offender (*Appendix M*) to the employee against whom an Employee Incident allegation was raised after the appropriate intervention. The notification will be issued in person so the contents of the notification can be reviewed with the employee. The employee will sign a receipt page to document that they were informed of the closure of the Employee Incident Report. The signature receipt along with a copy of the notification will be included in the official Employee Incident Report file and forwarded to the BIE Program Specialist (SCAN). This final action closes the Employee Incident Report. If administrative or proactive action is proposed or corrective action is required that affects the employee, it is the responsibility of the Principal/Administrator to ensure these action(s) are carried out.
9. When the Employee Incident Report is closed and the closure notification completed, the Principal/Administrator will forward the official file to the BIE SCAN Office which serves as the official repository for Incident files. The official file should include but is not limited to:
 - A. Employee Incident Report Form

- B. Notification to Alleged Offender
 - C. Closure Notification
 - D. Copies of fax transmittals and receipts
 - E. Victim/Witness/Alleged Offender's statements, etc.
10. If a temporary file, also known as suspense file, exists at the school, the Principal/Administrator will ensure it is destroyed after the Employee Incident is closed; such files should not be maintained after case closure. The file will be forwarded to the BIE Program Specialist (SCAN) for review and final disposition.

6.5 *Non-BIE Employee Incident Reports*

The Principal/Administrator will establish an official file for the Incident Report. The Principal/Administrator will take appropriate action for all students, volunteers, or others that were alleged to have been involved in an Incident. All documentation must be made a permanent part of the official file. The Incident Report will remain open until resolution is made and documented.

- a. A copy of the recommendations will be forwarded to the BIE Program Specialist (SCAN). The BIE Program Specialist (SCAN) will review the information and take appropriate action as necessary. Copies may be forwarded to the Contracting Officer for advice and consultation on appropriate administrative action required, if deemed necessary.

CHAPTER 7 Training

7.0 Introduction. Training will be conducted on a regularly scheduled basis to ensure child protection procedures are implemented properly and all BIE employees understand their responsibilities as Mandated Reporters.

7.1 Awareness Training. Every BIE employee will receive Notification of Responsibilities Form (Appendix C) advising them of the requirements of their positions to include child abuse or suspected child abuse reporting, Mandated Reporting responsibilities, the penalties for non-reporting, etc. BIE employees will receive this information upon a tentative offer of employment and annually thereafter.

7.2 Mandated Reporters. All BIE employees whose positions have been designated as a Mandated Reporter must attend a re-orientation on the requirements of this designation upon hiring and annually thereafter, preferably at the beginning of each school year. Attendance is mandatory and will be documented through employee signature of attendance rosters & through certificates that will be issued to attendees. The documentation of attendance will be maintained by the Principal/Administrator. If an employee refuses to attend such training, the appropriate corrective action will be taken.

7.3 Supervisory Positions. All BIE school supervisors must attend trainings pertaining to Mandated Reporters requirements and responsibilities of supervisors to include the proper completion of SCAN Reports and the follow-up procedures upon hire and annually thereafter, prior to each school year. Supervisors will then be qualified to administer trainings to their employees on Mandated Reporters requirements. Attendance is mandatory and will be documented through certificates that will be issued to attendees. Training & documentation will be maintained by the ELO for schools and the Deputy Director's Office for agencies. If an employee refuses to attend such training, the appropriate corrective action will be taken.

7.4 Administrative Inquiry Team. All individuals designated as Administrative Team members must attend annual AIT Training to receive information on the proper completion of SCAN Reports, follow-up and the development of proactive and corrective action recommendations. The AIT will then be responsible for providing ongoing training to the school board and Parent Action Committee (PAC) on an as-needed basis. Team members are prohibited from participating in AIT activities until they have successfully completed the training. The documentation of attendance will be maintained by the ELO for schools and the Deputy Director's Office for agencies.

Appendix A

Public Law 101-630, as amended, (Codified in 25 United States Code 3203, § 1169),
Indian Child Protection and Family Violence Prevention Act, as amended

Sec. 3203. - Reporting procedures

(a) Omitted

(b) Notification of child abuse reports

(1) When a local law enforcement agency or local child protective services agency receives an initial report from any person of -

(A) the abuse of a child in Indian country, or

(B) actions which would reasonably be expected to result in abuse of a child in Indian country, the receiving agency shall immediately notify appropriate officials of the other agency of such report and shall also submit, when prepared, a copy of the written report required under subsection (c) of this section to such agency.

(2) Where a report of abuse involves an Indian child or where the alleged abuser is an Indian and where a preliminary inquiry indicates a criminal violation has occurred, the local law enforcement agency, if other than the Federal Bureau of Investigation, shall immediately report such occurrence to the Federal Bureau of Investigation.

(c) Written report of child abuse

(1) Within 36 hours after receiving an initial report described in subsection (b) of this section, the receiving agency shall prepare a written report which shall include, if available -

(A) the name, address, age, and sex of the child that is the subject of the report;

(B) the grade and the school in which the child is currently enrolled;

(C) the name and address of the child's parents or other person responsible for the child's care;

(D) the name and address of the alleged offender;

(E) the name and address of the person who made the report to the agency;

(F) a brief narrative as to the nature and extent of the child's injuries, including any previously known or suspected abuse of the child or the child's siblings and the suspected date of the abuse; and

(G) any other information the agency or the person who made the report to the agency believes to be important to the investigation and disposition of the alleged abuse.

(2) (A) Any local law enforcement agency or local child protective services agency that receives a report alleging abuse described in section 3202(3) [11](#) of this title shall immediately initiate an investigation of such allegation and shall take immediate, appropriate steps to secure the safety and well-being of the child or children involved.

(B) Upon completion of the investigation of any report of alleged abuse that is made to a local law enforcement agency or local child protective services agency, such agency shall prepare a final written report on such allegation.

(d) Confidentiality of informant

The identity of any person making a report described in subsection (b)(1) of this section shall not be disclosed, without the consent of the individual, to any person other than a court of competent jurisdiction or an employee of an Indian tribe, a State or the Federal Government who needs to know the information in the performance of such employee's duties

Sec. 2258. - Failure to report child abuse

A person who, while engaged in a professional capacity or activity described in subsection (b) of section 226 of the Victims of Child Abuse Act of 1990 on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, as defined in subsection (c) of that section, and fails to make a timely report as required by subsection (a) of that section, shall be guilty of a Class B misdemeanor

Appendix B

Public Law 101-647, (Codified in 42 United States Code 13031), *Crime Control Act of 1990, Subchapter IV – Child Abuse Reporting*

Sec. 13031. - Child abuse reporting

(a) In general

A person who, while engaged in a professional capacity or activity described in subsection (b) of this section on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, shall as soon as possible make a report of the suspected abuse to the agency designated under subsection (d) of this section.

(b) Covered professionals

Persons engaged in the following professions and activities are subject to the requirements of subsection (a) of this section:

- (1)** Physicians, dentists, medical residents or interns, hospital personnel and administrators, nurses, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, undertakers, coroners, medical examiners, alcohol or drug treatment personnel, and persons performing a healing role or practicing the healing arts.
- (2)** Psychologists, psychiatrists, and mental health professionals.
- (3)** Social workers, licensed or unlicensed marriage, family, and individual counselors.
- (4)** Teachers, teacher's aides or assistants, school counselors and guidance personnel, school officials, and school administrators.
- (5)** Child care workers and administrators.
- (6)** Law enforcement personnel, probation officers, criminal prosecutors, and juvenile rehabilitation or detention facility employees.
- (7)** Foster parents.
- (8)** Commercial film and photo processors.

(c) Definitions

For the purposes of this section -

- (1)** the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child;
- (2)** the term "physical injury" includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe bruising or serious bodily harm;
- (3)** the term "mental injury" means harm to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors, which may be demonstrated by a change in behavior, emotional response or cognition;
- (4)** the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;
- (5)** the term "sexually explicit conduct" means actual or simulated -
 - (A)** sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex; sexual contact means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person;
 - (B)** bestiality;
 - (C)** masturbation;
 - (D)** lascivious exhibition of the genitals or pubic area of a person or animal; or
 - (E)** sadistic or masochistic abuse;
- (6)** the term "exploitation" means child pornography or child prostitution;

(7) the term "negligent treatment" means the failure to provide, for reasons other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of the child; and

(8) the term "child abuse" shall not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty.

(d) Agency designated to receive report and action to be taken

For all Federal lands and all federally operated (or contracted) facilities in which children are cared for or reside, the Attorney General shall designate an agency to receive and investigate the reports described in subsection (a) of this section. By formal written agreement, the designated agency may be a non-Federal agency. When such reports are received by social services or health care agencies, and involve allegations of sexual abuse, serious physical injury, or life-threatening neglect of a child, there shall be an immediate referral of the report to a law enforcement agency with authority to take emergency action to protect the child. All reports received shall be promptly investigated, and whenever appropriate, investigations shall be conducted jointly by social services and law enforcement personnel, with a view toward avoiding unnecessary multiple interviews with the child.

(e) Reporting form In every federally operated (or contracted) facility, and on all Federal lands, a standard written reporting form, with instructions, shall be disseminated to all mandated reporter groups. Use of the form shall be encouraged, but its use shall not take the place of the immediate making of oral reports, telephonically or otherwise, when circumstances dictate.

(f) Immunity for good faith reporting and associated actions

All persons who, acting in good faith, make a report by subsection (a) of this section, or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report, shall be immune from civil and criminal liability arising out of such actions. There shall be a presumption that any such persons acted in good faith. If a person is sued because of the person's performance of one of the above functions, and the defendant prevails in the litigation, the court may order that the plaintiff pay the defendant's legal expenses. Immunity shall not be accorded to persons acting in bad faith.

(g) Omitted

(h) Training of prospective reporters

All individuals in the occupations listed in subsection (b)(1) of this section who work on Federal lands, or are employed in federally operated (or contracted) facilities, shall receive periodic training in the obligation to report, as well as in the identification of abused and neglected children

Awareness Information

CHILD ABUSE/NEGLECT REPORTING AND MANDATED REPORTERS IN THE BUREAU OF INDIAN EDUCATION

The Bureau of Indian Education (BIE), Requirements and Protocol for Reporting Suspected Child Abuse/Neglect (SCAN) provides that each BIE employee will receive notice of their responsibilities as a Mandated Reporter of child abuse upon initial employment and annually thereafter. Chapter 1 states, in part, that the notice will include all positions designated as Mandated reporters, when a Mandated Reporter must report child abuse or suspected child abuse, how the Mandated Reporter is to report the information, and the ramifications for not reporting child abuse or suspected child abuse. Further, Chapter 6 states, in part, that each BIE employee will receive information advising them of the requirements of their positions to include the reporting of child abuse or suspected child abuse. The information will be provided upon a tentative offer of employment, and annually thereafter. Finally, all BIE employees whose positions have been designated as a Mandated Reporter will receive a briefing on the requirements of this designation upon hiring and annually at the beginning of each school year.

The information sheet is designed to provide notice, information and training for Mandated Reporters in BIE. It also satisfies the requirement for employees to receive written information regarding their responsibilities as Mandated Reporters.

Mandated Reporters

The following positions are designated as an impact on BIE Positions - Mandated Reporters within BIE:

- * Teachers * Nurses/Physicians/Surgeons
- * School Counselors * Dentists/Dental Hygienists
- * Instructional Aides * Optometrists
- * Teacher's Aides * Medical Examiners
- * Teacher's Assistants * EMTs/Paramedics
- * Bus Drivers * Health Care Providers
- * Administrative Officers * Head Start Teachers
- * Child Welfare & Attendance Supervisors * Public Assistance Workers
- * Truancy Officers * Group Home, Day Care, Residential Workers, House Parent/dorm staff
- * Child Day Care Workers * Social Workers
- * Psychiatrists * Mental Health Personnel
- * Psychologists * Law Enforcement Officers
- * Psychological Assistants * Probation Officers
- * Licensed or Unlicensed Marriage, Family * Juvenile Rehabilitation or Detention Workers
or Child Counselors * Personnel responsible for enforcing laws and
Judicial orders

Persons engaged in the following professions and activities are also subject to the mandated reporting of child abuse or suspected abuse: Alcohol or Drug Treatment Personnel; Persons performing a healing role or practicing the healing arts; Guidance Personnel; School officials (i.e., anyone who has management oversight of or at a school); and School Administrators, (i.e., anyone working in an official capacity at a school).

Finally, in addition to the positions and activities specifically identified above, all Federal employees, contractor employees within BIE also have a duty to report any reasonable suspicion of child abuse for any Indian child for which they have responsibility.

Child Abuse and Neglect – Definitions

“CHILD” means any person who is not married and has not attained 18 years of age.

“CHILD ABUSE” includes but is not limited to any case in which a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and such condition is not justifiably explained or may not be the product of an accidental occurrence; and any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution.

“CHILD NEGLECT” includes but is not limited to, negligent treatment or maltreatment of a child by a person, including a person responsible for the child's welfare, under circumstances that indicate that the child's health or welfare is harmed or threatened thereby.

Suspected Child Abuse/Neglect (SCAN) Reporting Form

Suspected Child Abuse/Neglect Report (SCAN)

Report Date:		Report Time:
SCHOOL INFORMATION		
1. Reporting School:		2. School Supervisor:
3. School Phone No.:		4. Responsible Education Line Officer:

PERSONAL INFORMATION OF VICTIM					
5. Last Name:		First Name:		Middle Initial:	6. Census No.:
7. SSN:	8. DOB:	9. Age:	10. Grade:	11. Sex:	
12. Check Suspected Abuse:					
<input type="checkbox"/> Physical Abuse		<input type="checkbox"/> Emotional Abuse		<input type="checkbox"/> Sexual Abuse	
<input type="checkbox"/> Neglect					
13. Describe Physical Indicators of Abuse:					
14. Name of Parent(s) , Guardian, Custodian:				15. Relation to Victim:	
16. Contact Telephone Number of Parents, Guardian, or Custodian:					
17. Complete Mailing Address:			18. Physical Location of Residence:		
(attach map, if applicable)					

ALLEGED OFFENDER INFORMATION:					
19. Full Name of Alleged Offender:			20. Alleged Offender's Position/Status		
21. If BIE Employee, Position Title:			<input type="checkbox"/> BIE Employee <input type="checkbox"/> BIE Contractor/Consultant <input type="checkbox"/> Volunteer * <input type="checkbox"/> Relative, _____ <small style="margin-left: 100px;">Specify</small> <input type="checkbox"/> Other, _____ <small style="margin-left: 100px;">Specify</small> <input type="checkbox"/> Student **		
22. Contact Information for Alleged Offender:					
Day Telephone: ()		Address or Physical Location:			
23. Location of alleged incident:		24. Date of alleged incident:			
		25. Time of alleged incident:	** Refer to school/agency policies and procedures for any alleged offenders under the age of 19 or classified as a student.		
26. Full Names and telephone numbers of potential witness(es):					

MANDATORY REPORT INFORMATION:					
27. Full Name and Title of Mandatory Reporter Reporting Above Incident:			28. Signature: _____		
			Date: _____		
29. Full Name of School Supervisor/Education Line Officer or Designee:			30. Signature: _____		
			Date: _____		
31. Has Mandatory Reporter Requested Protection of their Identity? <input type="checkbox"/> YES <input type="checkbox"/> NO			32. Initials of Mandatory Reporter: _____		

INFORMATION REGARDING THE INCIDENT

(Please type or print clearly the following information.)

33. Describe how you became aware of the incident:

34. Describe the specific incident:

(NOTE: Mandated Reporters do not have to prove abuse when making a report, but must describe the behavior or physical sign that led the Mandated Reporter to believe the child was abused.)

35. Did the alleged abuser physically touch the victim in any way?

NO **YES** If yes, describe specifically the physical contact.

36. Was Medical Treatment Required?

NO **YES** If yes, indicate action taken:

- Victim was taken for medical care by school staff for an evaluation and/or medical treatment
- Ambulance was contacted for immediate medical attention.
- Other. Explain action taken:

ATTACHMENTS

- Continuation pages, if required
- Statement from victim, witness, alleged offender, etc.
- Other (must describe attachment): _____

Distribution:

Original to SCAN Case File
Copies to Appropriate Authority (*Law Enforcement, Child Protective Services and BIE Program Specialist*)

CONFIDENTIALITY AGREEMENT

To be read and signed by Mandated Reporter

In accordance with the Indian Child Protection and Family Violence Prevention Act, the identity of any person making a report of suspected child abuse or neglect shall not be disclosed, without the consent of the individual, to any person other than a court of competent jurisdiction or any employee of an Indian tribe, a State or the Federal Government who need to know the information in the performance of such employee' duties.

By signing this agreement, I understand that:

1. Confidentiality means that I cannot discuss any matter pertaining to any child abuse or neglect case, except as allowed by law. Pursuant to section 552a of Title 5, United States Code, the Family Education Rights and Privacy Act of 1974 (20 USC 1232g), or any other provision of law, agencies of any Indian tribe, of any State, or of the Federal government that investigate and treat incidents of abuse of children may provide information and records to those agencies of any Indian Tribe, and State, or any Federal Government that need to know the information in performance of their duties. For purposes of this section, Indian tribal government shall be treated the same as other Federal Government entities.
2. The legal requirements of confidentiality mean that I cannot discuss any matter pertaining to the Suspected Child Abuse and/or Neglect Report I completed on this date with any member of my family, including parents, children, spouse, aunts, uncles, cousins, any school staff or with another person unless they are allowed access to such information by law.
3. If I do not keep substantiated and/or unsubstantiated child abuse and/or neglect cases confidential, I may be subject to disciplinary action up to and including termination of my job as allowed by tribal or federal law or BIE policies and procedures.

Signature of Mandated Reporter

Position/Title

Date

Witnessed by:

Signature of School Supervisor, Education Line Office, or Designee

Date

Tracking of Notifications

Note: Contact to Law Enforcement and Child Protection Services should be made immediately.
 All contact is to be made verbally and followed-up in writing by faxing pages 1-4 of the SCAN Report.
 Contact does not have to be made to all agencies identified under law enforcement or social services/child protection services, only those required for your school.

LAW ENFORCEMENT NOTIFICATION (Only indicate actual law enforcement agency contacted):

AGENCY CONTACTED	PERSON CONTACTED, TITLE AND TELEPHONE NUMBER	DATE & TIME OF REPORT	
		Verbal Contact	Written Contact
Tribal:			
FBI:			
BIA Law Enforcement:			
Local/State/Other:			

IF APPLICABLE, indicate the Law Enforcement Report/Case Number: _____

SOCIAL SERVICES/CHILD PROTECTION SERVICES NOTIFICATION (Only indicate actual agency contacted.):

AGENCY CONTACTED	PERSON CONTACTED, TITLE AND TELEPHONE NUMBER	DATE & TIME OF REPORT	
		Verbal Contact	Written Contact
Tribal:			
Local:			
State:			

BIE NOTIFICATION

	PERSON CONTACTED, TITLE AND TELEPHONE NUMBER	DATE & TIME OF REPORT	
		Verbal Contact	Written Contact
BIE Program Specialist (SCAN)			
Other			

SCAN TRACKING NOTES

INFORMATION ON PERSON MAKING NOTIFICATIONS:

Full Name and Title of Individual Filling Out Tracking Report:	Date:

Employee Incident Report Form

ADMINISTRATIVELY RESTRICTED

Employee Incident Report

Date of Report: _____
 Time: _____

Reporting School: _____

Name of Child: _____ D.O.B.: _____
First Middle Last

Sex: _____ Census No: _____ Age: _____ Grade: _____ Teacher: _____

Parent(s)/Legal Guardian(s) Names: _____

Mailing Address: _____

Location of Home: _____

Home Telephone: _____ Work No. (Mother): _____ Work No. (Father) _____

Date of alleged incident: _____ Time of day: _____ AM PM

Location of alleged incident: _____

Check all that apply:

- Discourteous conduct involving a student by an employee:
 - using inappropriate language;
 - making inappropriate comments of a non-sexual manner;
 - calling names insulting or humiliating a child;
 - shouting, cursing;
 - rude, boisterous play that adversely affect production, discipline, or morale of a student;
 - use of abusive, demeaning, degrading or insulting language;
 - quarreling or inciting a quarrel;
 - Other: _____

Describe in student's/staff's own words his/her account of event(s): _____

Full Name(s) of potential witness(es): _____
 Phone Number(s): _____

Full Name of Alleged Offender: _____
First Middle Last

Check One: BIE Employee: Position Title: _____
 BIE Contractor/Consultant
 Other
 (specify): _____

Full Name and Title of Mandatory Reporter:	Signature:	Date:
Full Name of School Supervisor/Education Line Officer or Designee:	Signature:	Date:

Has Mandatory Reporter Requested Protection of their Identity? YES NO

Initials of Mandatory Reporter: _____

CONFIDENTIALITY AGREEMENT

To be read and signed by Mandated Reporter

In accordance with the Indian Child Protection and Family Violence Prevention Act, the identity of any person making a report of suspected child abuse or neglect shall not be disclosed, without the consent of the individual, to any person other than a court of competent jurisdiction or any employee of an Indian tribe, a State or the Federal Government who need to know the information in the performance of such employee' duties.

By signing this agreement, I understand that:

4. Confidentiality means that I cannot discuss any matter pertaining to any child abuse or neglect case, except as allowed by law. Pursuant to section 552a of Title 5, United States Code, the Family Education Rights and Privacy Act of 1974 (20 USC 1232g), or any other provision of law, agencies of any Indian tribe, of any State, or of the Federal government that investigate and treat incidents of abuse of children may provide information and records to those agencies of any Indian Tribe, and State, or any Federal Government that need to know the information in performance of their duties. For purposes of this section, Indian tribal government shall be treated the same as other Federal Government entities.
5. The legal requirements of confidentiality mean that I cannot discuss any matter pertaining to the Suspected Child Abuse and/or Neglect Report I completed on this date with any member of my family, including parents, children, spouse, aunts, uncles, cousins, any school staff or with another person unless they are allowed access to such information by law.
6. If I do not keep substantiated and/or unsubstantiated child abuse and/or neglect cases confidential, I may be subject to disciplinary action up to and including termination of my job as allowed by tribal or federal law or BIE policies and procedures.

Signature of Mandated Reporter Position/Title Date

Witnessed by:

Signature of School Supervisor, Education Line Office, or Designee Date

**Tracking of Notifications
Information on Person Making Notifications**

BIE NOTIFICATION			
	PERSON CONTACTED, TITLE AND TELEPHONE NUMBER	DATE & TIME OF REPORT	
		Verbal Contact	Written Contact
BIE Program Specialist (SCAN)			

SCAN TRACKING NOTES

INFORMATION ON PERSON MAKING NOTIFICATIONS:

Full Name and Title of Individual Filling Out Tracking Report:	Date:
--	-------

Coversheet for SCAN Reports Containing a Confidential Source

Attention

The attached file contains information which was obtained under a pledge of confidentiality. The information must not be discussed in such a manner that would disclose the identity of the Confidential Source(s).

Dissemination, distribution, copying, or unauthorized use of the information contained in the attached Report is strictly prohibited. As requested in writing, the identity of the person making the attached report must not be disclosed to individuals who do not have a need to know the information as part of their official duties without the written consent of the individual.

Questions about the handling or possible use of protected source information should be directed to the BIE Program Specialist (SCAN) at (505) 563.5290. All requests for disclosure of information will be referred to the Bureau of Indian Affairs Freedom of Information and Privacy Act Officer.

Attention

Notification to Alleged Offender - SCAN

(BIE Employees, Contractors, and Consultants Only)



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Office of Indian Education Programs

Human Resources Office

P.O. Box 769

Albuquerque, New Mexico 87103

IN REPLY REFER TO:

[Date]

Memorandum

To: **[Name, Title, and School/Organization of Alleged Offender]**

From: School Supervisor/Principal, **[Insert Name of School]** OR
Education Line Officer, **[Insert Name of Education Line Office]**

Subject: Suspected Child Abuse/Neglect Report

On **[insert date]** a Suspected Child Abuse/Neglect (SCAN) Report was completed alleging you as the suspected offender. The following is being released to you for your information:

Type of Abuse Alleged: **[Indicate whether physical abuse, sexual abuse, emotional abuse, or neglect]**

Summary of Allegation: **[Provide a short summary on the specific allegation.]**

In accordance with the Indian Child Protection and Family Violence Prevention Act and the Crime Control Act of 1990, you are being removed from contact with or control over Indian children pending a determination to whether your continued contact with Indian children poses an eminent threat to the well-being of children. It is expected that you will be in this status for a period of one to five days while an Administrative Inquiry Team reviews the SCAN Report and provides their recommendations to your Principal/Administrator in accordance with the BIE SCAN & Employee Incident Reporting Protocol. While in this status you must be available for contact in the event management at **[insert school name]** requires you to report back to duty or law enforcement representatives, or child protection services representatives need to contact you for a statement or interview.

The role of the Administrative Inquiry Team is to ensure that the SCAN Report was completed accurately and to assist management in ensuring the school continues to function efficiently and effectively without further impact on the involved child or other children. The role of law enforcement is to initiate an investigation into the allegations documented on the SCAN Report.

You are further advised that if the allegations are substantiated, it may result in administrative action that may impact your employment status and/or your suitability to work with children.

You will be advised, in writing, of the final outcome of the SCAN Report through written Closure Notification. If you should have any questions, please contact **[Identify the school/Line Office designated point of contact]**.

Please acknowledge receipt of this memorandum in the space provided below and return it to me. Your signature does not mean that you agree with the contents of this notice, but merely reflects that you received it.

I hereby acknowledge receipt

Employee Signature

Date

cc: BIE Program Specialist (SCAN)

Notification of Closure to Alleged Offender – SCAN



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Office of Indian Education Programs

Human Resources Office

P.O. Box 769

Albuquerque, New Mexico 87103

IN REPLY REFER TO:

[DATE]

Memorandum

To: [Name, Title, and School/Organization of Alleged Offender]

From: School Supervisor/Principal, [Insert Name of School] OR
Education Line Officer, [Insert Name of Education Line Office]

Subject: Suspected Child Abuse/Neglect (SCAN) Closure Notification

On [insert date] a SCAN Report was filed where you were named as the alleged offender. Our findings, conclusion, and corrective/proactive actions are as follows:

ALLEGATION. [Indicate type of abuse (physical abuse, sexual abuse, emotional abuse, neglect or none was confirmed and a short summary of the specific allegation)]

FINDING(S). [Provide a summary of the findings to include the results of the administrative inquiry, if applicable. If a law enforcement investigation was conducted, the results of the investigation should be provided. Emphasis should be on the facts of the case and include no opinions or speculation]

CONCLUSION. [The conclusion will state the results of the findings as they relate to the individual's position. The conclusion should include action(s) that the supervisor believes may be required to address the incident/conduct identified within the finding(s) such as training; verbal counseling; performance improvement; referral to Employee Assistance Program; disciplinary or adverse action; etc. Additionally, if the individual is re-assigned to another area or on administrative leave, the conclusion should address their return.]

CORRECTIVE ACTION/PROACTIVE PLAN. [Recommendations for corrective measures to prevent a similar incident from occurring in the future and/or proactive measures must be included in each Closure Notification.]

This memorandum shall serve to notify you that the SCAN Report dated [insert date], has been closed. If the disposition of the SCAN Report has resulted in the contemplation of disciplinary measures, you

will be notified through separate correspondence.

Please acknowledge receipt of this memorandum in the space provided below and return it to me. Your signature does not mean that you agree with the contents of this notice, but merely reflects that you received it.

I hereby acknowledge receipt.

Employee Signature

Date

cc: BIE Program Specialist (SCAN)

Administrative Inquiry Team Recommendation(s) Memorandum



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Office of Indian Education Programs

Human Resources Office

P.O. Box 769

Albuquerque, New Mexico 87103

IN REPLY REFER TO:

[Date]

Memorandum

To: Principal/Administrator **[Insert Name of School]** OR
Education Line Officer, **[Insert Name of Education Line Office]**

From: Administrative Inquiry Team, **[Insert Name of Education Line Office]**

Subject: Suspected Child Abuse/Neglect Report in the case of **[Alleged Offender]**

On **[insert date]** a Suspected Child Abuse/Neglect (SCAN) Report was filed naming **[Name and Title of Alleged Offender]** as the alleged offender. The SCAN Report and the merits of the incident were reviewed by the Administratively Inquiry Team. We have confirmed the following:

Type of Abuse Alleged: **[Indicate whether physical abuse, sexual abuse, emotional abuse, or neglect]**

Our recommendations are as follows:

[Provide summary of recommendations. The recommendations must address returning the individual to their position and corrective and/or proactive measures to prevent a similar incident from occurring in the future.]

cc: BIE Program Specialist (SCAN)

SCAN Fax Cover Sheet

**Confidential.....Confidential.....Confiden
tial.....Confidential.....Confidential...**

**SCAN Document-Report
Bureau of Indian Education**



To:

◇ *Redacted*, LMSW
(Program Specialist-SCAN)

505.563.5292
(Fax Number)

505.563.5290
(Phone Number)

◇ **Social Services**

(Child Protective Service)

(Name)

(Fax Number)

(Phone Number)

◇ **Law Enforcement**

(Name)

(Fax Number)

(Phone Number)

◇ **Other:**

(Name)

(Fax Number)

(Phone Number)

Total Pages (incl. cover): _____

The AIT has reviewed this document and conclude it is in its complete form.

From:

(Name)

(Phone Number)

Date:

Comment:

Follow-up Letter to Law Enforcement Services



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Office of Indian Education Programs

Human Resources Office

P.O. Box 769

Albuquerque, New Mexico 87103

IN REPLY REFER TO:

[DATE]

**[Complete mailing address for
Law Enforcement Agency to which the SCAN Report was submitted]**

A Suspected Child Abuse/Neglect (SCAN) Report was submitted to your agency on **[Date of Report]** regarding an incident at **[name school/duty location]**. We are conducting a follow-up on the SCAN Report submission. The following is information to assist you with locating the report:

NAME of ALLEGED OFFENDER:

NAME of VICTIM:

POLICE REPORT NO.:

LAW ENFORCEMENT POINT of CONTACT:

If NO action has been taken at this time, please check here: []

If there IS action being taken as a result of the SCAN Report we submitted, please provide details of the record below, including the action taken by your office, and the court that could provide more information.

Date	Action Taken	Court

Please have the person from your agency who conducted the records check sign below

Date	Name & Signature	TITLE/Telephone Number

This request is consistent with the requirements derived from one or more of the following regulations: 42 United States Code (U.S.C.) 13041; 13031; and 25 U.S.C. 3203.

Thank you for your assistance. Please forward the results of your records search to my attention, FAX: **[Indicate school/agency fax number]** or **[Indicate school/agency address]**. Questions can be directed to **[Indicate point of contact name and telephone number.]**

[Signature]

Administratively Restricted

Notification to Alleged Offender – Employee Incident Report

(BIE Employees, Contractors, and Consultants Only)



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Office of Indian Education Programs

Human Resources Office

P.O. Box 769

Albuquerque, New Mexico 87103

IN REPLY REFER TO:

[Date]

Memorandum

To: [Name, Title, and School/Organization of Alleged Offender]

From: School Supervisor/Principal, [Insert Name of School] OR
Education Line Officer, [Insert Name of Education Line Office]

Subject: Employee Incident Report

On [insert date] an Employee Incident Report was filed naming you as the alleged offender. The following is for your information:

Type of Incident Alleged: [Indicate type of discourteous conduct by staff to student]

Summary of Allegation: [Provide a short summary on the specific allegation]

In accordance with the Indian Child Protection and Family Violence Prevention Act and the Crime Control Act of 1990, you are being removed from contact with or control over Indian children pending a determination to whether your continued contact with Indian children poses an eminent threat to the well-being of children. It is expected that you will be in this status for a period of one to five days while I, the Principal/Administrator review, the Employee Incident Report and reach a resolution in accordance with the BIE SCAN & Employee Incident Reporting Protocol. While in this status you must be available for contact in the event management at the [insert school name] requires you to report back to duty or further consultation is needed.

The role of the Principal/Administrator is to ensure that the Employee Incident Report was completed accurately and to ensure the school continues to function efficiently and effectively without further impact on the named child or other children. Further consultation with HR/LR and the Program Specialist (SCAN) will be exercised as necessary.

You are further advised that if the allegations are substantiated, it may result in administrative action that may impact your employment status and/or your suitability to work with children.

You will be advised, in writing, of the final outcome of the Employee Incident Report through a written

Closure Notification. If you should have any questions, please contact **[Identify the school/Line Office designated point of contact]**.

Please acknowledge receipt of this memorandum in the space provided below and return it to me. Your signature does not mean that you agree with the contents of this notice, but merely reflects that you received it.

I hereby acknowledge receipt

Employee Signature

Date

cc: BIE Program Specialist (SCAN)

Notification of Closure to Alleged Offender – Employee Incident Report



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Office of Indian Education Programs

Human Resources Office

P.O. Box 769

Albuquerque, New Mexico 87103

IN REPLY REFER TO:

[DATE]

Memorandum

To: [Name, Title, and School/Organization of Alleged Offender]

From: School Supervisor/Principal, [Insert Name of School] OR
Education Line Officer, [Insert Name of Education Line Office]

Subject: Employee Incident Closure Notification

On [insert date] an Employee Incident Report was filed where you were named as the alleged offender. The findings, conclusion, and corrective/proactive actions are as follows:

ALLEGATION. Indicate type of discourteous conduct by staff to student and a short summary of the specific allegation)

FINDING(S). Provide a summary of the findings to include the results of the administrative inquiry by the Principal/Administrator. Emphasis should be on the facts of the case and include no opinions or speculation.

CONCLUSION. The conclusion will state the results of the findings as they relate to the individual's position. The conclusion should include action(s) that the supervisor believes may be required to address the incident/conduct identified within the finding(s) such as training; verbal counseling; performance improvement; referral to Employee Assistance Program; disciplinary or adverse action; etc. Additionally, if the individual is re-assigned to another area or on administrative leave, the conclusion should address their return.

CORRECTIVE ACTION/PROACTIVE PLAN. Recommendations for corrective measures to prevent a imilar incident from occurring in the future and/or proactive measures must be included in each Closure Notification.

This memorandum shall serve to notify you that the Employee Incident Report dated [insert date], has been closed. If the disposition of the Employee Incident Report has resulted in the contemplation of disciplinary measures, you will be notified through separate correspondence.

Please acknowledge receipt of this memorandum in the space provided below and return it to me. Your signature does not mean that you agree with the contents of this notice, but merely reflects that you received it.

I hereby acknowledge receipt.

Employee Signature

Date

cc: BIE Program Specialist (SCAN)

Suspected Child Abuse/Neglect Report (SCAN)

Report Date:		Report Time:
SCHOOL INFORMATION		
1. Reporting School:		2. School Supervisor:
3. School Phone No.: ()		4. Responsible Education Line Officer:

PERSONAL INFORMATION OF VICTIM					
5. Last Name:		First Name:		Middle Initial:	6. Census No.:
7. SSN:	8. DOB:	9. Age:	10. Grade:	11. Sex:	
			SELECT GRADE	SELECT GENDER	
12. Check Suspected Abuse:					
<input type="checkbox"/> Physical Abuse <input type="checkbox"/> Emotional Abuse <input type="checkbox"/> Sexual Abuse <input type="checkbox"/> Neglect					
13. Describe Physical Indicators of Abuse:					
14. Name of Parent(s) , Guardian, Custodian:				15. Relation to Victim:	
16. Contact Telephone Number of Parents, Guardian, or Custodian: ()					
17. Complete Mailing Address:			18. Physical Location of Residence:		
			(attach map, if applicable)		

ALLEGED OFFENDER INFORMATION:			
19. Full Name of Alleged Offender:		20. Alleged Offender's Position/Status	
21. If BIE Employee, Position Title:		<input type="checkbox"/> BIE Employee <input type="checkbox"/> BIE Contractor/Consultant <input type="checkbox"/> Volunteer * <input type="checkbox"/> Relative, _____ Specify <input type="checkbox"/> Other, _____ Specify <input type="checkbox"/> Student **	
22. Contact Information for Alleged Offender:			
Day Telephone: ()	Address or Physical Location:		
23. Location of alleged incident:	24. Date of alleged incident:		
	25. Time of alleged incident:		
26. Full Names and telephone numbers of potential witness(es):		** Refer to school/agency policies and procedures for any alleged offenders under the age of 19 or classified as a student.	

MANDATORY REPORT INFORMATION:			
27. Full Name and Title of Mandatory Reporter Reporting Above Incident:		28. Signature: _____	
		Date: _____	
29. Full Name of School Supervisor/Education Line Officer or Designee:		30. Signature: _____	
		Date: _____	
31. Has Mandatory Reporter Requested Protection of their Identity? <input type="checkbox"/> YES <input type="checkbox"/> NO		32. Initials of Mandatory Reporter: _____	

INFORMATION REGARDING THE INCIDENT

(Please type or print clearly the following information.)

33. Describe how you became aware of the incident:

34. Describe the specific incident:

(NOTE: Mandated Reporters do not have to prove abuse when making a report, but must describe the behavior or physical sign that led the Mandated Reporter to believe the child was abused.)

35. Did the alleged abuser physically touch the victim in any way?

NO **YES** If yes, describe specifically the physical contact.

36. Was Medical Treatment Required?

NO **YES** If yes, indicate action taken:

Victim was taken for medical care by school staff for an evaluation and/or medical treatment
 Ambulance was contacted for immediate medical attention.
 Other. Explain action taken:

ATTACHMENTS

- Continuation pages, if required
- Statement from victim, witness, alleged offender, etc.
- Other (must describe attachment): _____

Distribution:

Original to SCAN Case File
 Copies to Appropriate Authority (*Law Enforcement, Child Protective Services and BIE Program Specialist*)

CONFIDENTIALITY AGREEMENT

To be read and signed by Mandated Reporter

In accordance with the Indian Child Protection and Family Violence Prevention Act, the identity of any person making a report of suspected child abuse or neglect shall not be disclosed, without the consent of the individual, to any person other than a court of competent jurisdiction or any employee of an Indian tribe, a State or the Federal Government who need to know the information in the performance of such employee' duties.

By signing this agreement, I understand that:

1. Confidentiality means that I cannot discuss any matter pertaining to any child abuse or neglect case, except as allowed by law. Pursuant to section 552a of Title 5, United States Code, the Family Education Rights and Privacy Act of 1974 (20 USC 1232g), or any other provision of law, agencies of any Indian tribe, of any State, or of the Federal government that investigate and treat incidents of abuse of children may provide information and records to those agencies of any Indian Tribe, and State, or any Federal Government that need to know the information in performance of their duties. For purposes of this section, Indian tribal government shall be treated the same as other Federal Government entities.
2. The legal requirements of confidentiality mean that I cannot discuss any matter pertaining to the Suspected Child Abuse and/or Neglect Report I completed on this date with any member of my family, including parents, children, spouse, aunts, uncles, cousins, any school staff or with another person unless they are allowed access to such information by law.
3. If I do not keep substantiated and/or unsubstantiated child abuse and/or neglect cases confidential, I may be subject to disciplinary action up to and including termination of my job as allowed by tribal or federal law or BIE policies and procedures.

Signature of Mandated Reporter

Position/Title

Date

Witnessed by:

Signature of School Supervisor, Education Line Office, or Designee

Date

Tracking of Notifications

Note: Contact to Law Enforcement and Child Protection Services should be made immediately.
All contact is to be made verbally and followed-up in writing by faxing pages 1-4 of the SCAN Report.
Contact does not have to be made to all agencies identified under law enforcement or social services/child protection services, only those required for your school.

LAW ENFORCEMENT NOTIFICATION (Only indicate actual law enforcement agency contacted):

AGENCY CONTACTED	PERSON CONTACTED, TITLE AND TELEPHONE NUMBER	DATE & TIME OF REPORT	
		Verbal Contact	Written Contact
Tribal:			
FBI:			
BIA Law Enforcement:			
Local/State/Other:			

IF APPLICABLE, indicate the Law Enforcement Report/Case Number: _____

SOCIAL SERVICES/CHILD PROTECTION SERVICES NOTIFICATION (Only indicate actual agency contacted.):

AGENCY CONTACTED	PERSON CONTACTED, TITLE AND TELEPHONE NUMBER	DATE & TIME OF REPORT	
		Verbal Contact	Written Contact
Tribal:			
Local:			
State:			

BIE NOTIFICATION

	PERSON CONTACTED, TITLE AND TELEPHONE NUMBER	DATE & TIME OF REPORT	
		Verbal Contact	Written Contact
BIE Program Specialist (SCAN)			
Other			

SCAN TRACKING NOTES

INFORMATION ON PERSON MAKING NOTIFICATIONS:

Full Name and Title of Individual Filling Out Tracking Report:	Date:
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ADMINISTRATIVELY RESTRICTED

Employee Incident Report

Date of Report: _____
 Time: _____

Reporting School: _____

Name of Child: _____ D.O.B.: _____
First Middle Last

Sex: ******* Census No: _____ Age: _____ Grade: Grade Teacher: _____

Parent(s)/Legal Guardian(s) Names: _____

Mailing Address: _____

Location of Home: _____

Home Telephone: _____ Work No. (Mother): _____ Work No. (Father) _____

Date of alleged incident: _____ Time of day: _____ AM PM

Location of alleged incident: _____

Check all that apply:

- Discourteous conduct involving a student by an employee:
 - using inappropriate language;
 - making inappropriate comments of a non-sexual manner;
 - calling names insulting or humiliating a child;
 - shouting, cursing;
 - rude, boisterous play that adversely affect production, discipline, or morale of a student;
 - use of abusive, demeaning, degrading or insulting language;
 - quarreling or inciting a quarrel;
 - Other: _____

Describe in student's/staff's own words his/her account of event(s): _____

Full Name(s) of potential witness(es): _____
 Phone Number(s): _____

Full Name of Alleged Offender: _____
First Middle Last

Check One: BIE Employee: Position Title: _____
 BIE Contractor/Consultant
 Other (specify): _____

Full Name and Title of Mandatory Reporter:	Signature:	Date:
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Full Name of School Supervisor/Education Line Officer or Designee:	Signature:	Date:
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Has Mandatory Reporter Requested Protection of their Identity? YES NO

Initials of Mandatory Reporter: _____

CONFIDENTIALITY AGREEMENT

To be read and signed by Mandated Reporter

In accordance with the Indian Child Protection and Family Violence Prevention Act, the identity of any person making a report of suspected child abuse or neglect shall not be disclosed, without the consent of the individual, to any person other than a court of competent jurisdiction or any employee of an Indian tribe, a State or the Federal Government who need to know the information in the performance of such employee' duties.

By signing this agreement, I understand that:

1. Confidentiality means that I cannot discuss any matter pertaining to any child abuse or neglect case, except as allowed by law. Pursuant to section 552a of Title 5, United States Code, the Family Education Rights and Privacy Act of 1974 (20 USC 1232g), or any other provision of law, agencies of any Indian tribe, of any State, or of the Federal government that investigate and treat incidents of abuse of children may provide information and records to those agencies of any Indian Tribe, and State, or any Federal Government that need to know the information in performance of their duties. For purposes of this section, Indian tribal government shall be treated the same as other Federal Government entities.
2. The legal requirements of confidentiality mean that I cannot discuss any matter pertaining to the Suspected Child Abuse and/or Neglect Report I completed on this date with any member of my family, including parents, children, spouse, aunts, uncles, cousins, any school staff or with another person unless they are allowed access to such information by law.
3. If I do not keep substantiated and/or unsubstantiated child abuse and/or neglect cases confidential, I may be subject to disciplinary action up to and including termination of my job as allowed by tribal or federal law or BIE policies and procedures.

Signature of Mandated Reporter	Position/Title	Date
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Witnessed by:

Signature of School Supervisor, Education Line Office, or Designee	Date
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**Tracking of Notifications
Information on Person Making Notifications**

BIE NOTIFICATION		DATE & TIME OF REPORT	
	PERSON CONTACTED, TITLE AND TELEPHONE NUMBER	Verbal Contact	Written Contact
BIE Program Specialist (SCAN)			

SCAN TRACKING NOTES

INFORMATION ON PERSON MAKING NOTIFICATIONS:

Full Name and Title of Individual Filling Out Tracking Report:	Date:
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