

**BOARD OF DIRECTORS REGULAR MEETING  
MANISTIQUE TRIBAL CENTER  
MANISTIQUE, MICHIGAN  
MAY 7, 2013  
6 PM**

- I. CALL TO ORDER
- II. INVOCATION: Prayer, Smudging, Presentation of Grandfathers
- III. ROLL CALL
- IV. PRESENTATION: Award Robert Wood Johnson Foundation
- V. MINUTES: 3-26-2013  
4-02-2013
- VI. RESOLUTIONS: Partial Waiver (1)  
Auth to Open Acct/Huntington Bank  
Auth to Open Trust/Investment Huntington Bank  
Limited Waiver – National City  
USDA-NRCS Cost Share Nunns Creek  
Budget Modifications:  
USDA-Nunns Creek 2014/2013  
Trap Net Consent  
Inter-Tribal Fisheries  
Legal Special Projects  
Tax Agreement  
Community Alert System  
Adam Walsh – SORNA  
Ed – Science to Service – STAY  
Ed – STAY Project  
Big Bear – Youth Programs  
Cultural – Pow Wow  
Community Care Clinic/Health Center  
St. Ignace Clinic  
Amending Vacation Policy  
Amending Drug –Free Workplace Policy  
Replacing Tribal Code Ch. 16, Removal of Office  
Sub. to Sec. Election – Signature Requirements for  
Removal from Office  
Rescinding Key Employee Resolutions  
Sub. to Sec. Election –Separation of Powers  
Sub. to Sec. Election – Right of Recall/Removal  
Sub. to Sec. Election – Right of Initiative  
Sub. to Sec. Election – Am. Bill of Rights  
Rescinding Res. 2012-146 & Est. Position of CEO
- VII. NEW BUSINESS: Committee Appt./Resignations  
Over the Max Positions
- VIII. ADJOURN TO EXECUTIVE SESSION:
- IX. RECONVENE AND REAFFIRM
- X. ADJOURN

## ***MEMORANDUM***

**TO: Board of Directors**  
**FROM: Joanne Carr, Board Secretary**  
**DATE: May 2, 2013**  
**RE: Workshop Agenda for May 7, 2013**

### **AGENDA**

10:00 a.m. – Two Percent

10:30 a.m. – Financials

Lunch

3:00 p.m. - Review of Agenda

5:00 p.m. – Matters Raised by the Membership

6:00 p.m. – Regular Meeting of the Board of Directors

**TRIBAL CODE**

**CHAPTER 16:**

**REMOVAL FROM OFFICE**

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**HISTORY NOTE:**

Current Ordinance:

Resolution 2003-83, adopted June 3, 2003 adopts Tribal Code Chapter 16: Removal from Office, effective immediately.

**TRIBAL CODE**

**CHAPTER 16**

**REMOVAL FROM OFFICE**

**16.101 Purpose and Scope.**

The purpose of this Chapter is to implement Tribal Constitution article VI by providing procedures for determining petitions for removal from office of Tribal elected officials. It governs proceedings for removal initiated after the effective date of this Chapter.

**16.102 Findings.**

The Board of Directors finds that:

(1) The Tribal Constitution and Bylaws provides for a democratically elected Chairperson and Board of Directors, with fixed terms of office. It permits removal from office upon petition by eligible voters alleging specific facts which show a violation of tribal law, after provision of notice and a hearing on the charges before a specially-convened hearing board.

(2) The provisions of Tribal Constitution article VI provide the sole remedy to tribal members for removal of elected officials from office. Removal of officials elected by tribal members is disfavored and is warranted only in serious circumstances.

(3) The requirement of allegations of specific facts showing a violation of tribal law, contained in Tribal Constitution article VI, section 3, is intended to provide the accused with fair notice of the charges against him or her, to allow for a determination whether the allegations would warrant removal if proven, to safeguard elected officials against spurious accusations, and to inform the accused official of the facts which will be at issue at the hearing.

**16.103 Definitions.**

As used in this Chapter:

(1) "Accused official" means the member of the Board of Directors or the Chairperson who is the subject of a removal petition filed in accordance with Tribal Constitution article VI, section 3.

(2) "Eligible voter" means any enrolled member of the Tribe who is eighteen years of age or older, and who is either:

(a) shown on the tribal membership roll to be a resident of an election unit; or

(b) registered as a voter residing outside of any election unit for the immediately preceding Tribal election conducted under Tribal Code Ch. 10.

(3) "Hearing Board" means the body created under §16.107(3) of this Chapter for the purpose of hearing the charges in the petition against the accused official.

(4) "Hearing Officer" means the person identified under §16.107(4) of this Chapter as the person to preside over the hearing on the charges in the petition against the accused official.

(5) "Secretary" means the Tribal Recording Secretary and staff working under the Tribal Secretary's direction.

#### **16.104 Initiation of Proceedings.**

(1) Proceedings under this Chapter are commenced with the filing with the Board of Directors of a petition seeking the removal of the chairperson or board member. A petition may not request the removal of more than one official. Filing of a petition shall take place at a regular or special meeting of the Board of Directors. The filing of a petition constitutes receipt of a petition within the meaning of Tribal Constitution article VI, section 4(a).

(2) A removal petition shall have a principal sponsor, who shall act as the petitioner for purposes of any hearing held on the petition. The principal sponsor shall be a qualified and registered voter of the Tribe. The name of the principal sponsor shall appear on each page of the petition along with the mailing address and telephone number. The principal sponsor is responsible to oversee the initiation of the circulated petition and for compliance with the provisions of this Chapter. Along with the petition the principal sponsor shall submit a statement signed under penalty of perjury that to the best of his or her knowledge and belief each page of the petition was circulated by a qualified circulator and complies with the provisions of sub. (3).

(3) Signatures on the petition shall be solicited only by qualified circulators, who shall be eligible voters of the Tribe. Each page circulated shall contain a certification by the qualified circulator of that page that he or she is a qualified circulator and that to the best of his or her knowledge and belief no signature on the petition was obtained through fraud, deceit, or misrepresentation; he or she has neither caused nor permitted a person to sign the petition more than once; he or she has no knowledge of a person signing the petition more than once; each signature is the genuine signature of the person purporting to sign the petition; the signer was an eligible voter of the Tribe residing at the address shown; and that the signature was solicited and obtained in compliance with this Chapter.

### **16.105 Contents of Petition.**

(1) The petition shall contain a statement of specific facts which, if true would constitute a violation of tribal law specified in sub. (3), together with a citation to the provision of the Constitution and Bylaws, ordinance, or resolution violated. The allegations must provide facts which, if true, would establish each element of the violation alleged and which provide sufficient detail so that the accused official can reasonably determine the conduct with which he or she is charged.

(2) A petition may include more than one ground for removal. Grounds which rely on different incidents or patterns of conduct shall be stated as separate counts or grounds, each of which shall meet the requirements of sub. (1).

(3) Violations of the following shall constitute grounds upon which a petition for removal may be based:

(a) Violation of the Constitution and Bylaws.

(b) Conduct which would constitute a violation of any provision of the Tribal Code that is punishable as a crime, regardless of whether the Tribal Court would have jurisdiction over the offense.

(c) Violation of the Tribal Code Ch. 10: Election Ordinance, or Tribal Code Ch. 96: Open Meetings Ordinance.

(d) Violation of any other ordinance or resolution that specifically provides that its violation may constitute grounds for removal from office.

(4) A violation shall not constitute grounds for removal if the conduct constituting the violation occurred before the publication of the notice of the election in which the accused official won his or her current term of office. Nothing in this subsection is intended to exclude otherwise admissible evidence of conduct occurring prior to this time if such evidence is admissible regarding conduct occurring thereafter.

(5) The petition must be signed by at least one hundred (100) eligible voters of the Tribe. Only original signatures shall be submitted in the petition.

### **16.106 Procedure Upon Filing of Petition.**

(1) The Secretary shall maintain the original petition at all times. The allegations contained in the petition shall remain confidential until the Board of Directors acts on the petition. Information identifying the signatories to the petition shall remain confidential except as provided in §16.108.

(2) As soon as practicable after the filing of the petition, the Secretary shall refer the petition to the Tribal Registrar, who shall make a determination of whether the petition contains the requisite number of signatures of eligible voters. The Registrar shall review the petition and Tribal voter registration records under standards and procedures utilized for the verification of signatures on nominating petitions for Tribal elections conducted under Tribal Code Ch. 10. The Registrar shall certify the determination to the Board of Directors as least five (5) days before the date of the meeting at which the Board of Directors will consider the petition.

(3) The Board of Directors shall consider the petition within fifteen (15) days of its receipt of the petition at a regular meeting or a special meeting called for that purpose. The contents of the petition, except for information identifying the signatories, shall be given to the members prior to the meeting. The Board of Directors shall consider the petition in an open meeting, and the contents of the petition (except for the identity of the signatories) shall thereafter be public.

(4) The Board of Directors shall determine whether the petition, on its face, appears to meet the criteria of §16.105. A detailed examination of the allegations shall not be required. The Board of Directors may, in its discretion, request the opinion of the Legal Department on the facial sufficiency of the petition. If the Board of Directors determines that the petition appears to be insufficient, it shall dismiss the petition.

(5) If the Board of Directors determines that the petition appears, on its face, to meet the criteria of §16.105, it shall set the date, time, and place for the initial hearing and direct the Secretary to prepare and serve a notice of hearing upon the accused official stating the date, time and place of the initial hearing and attaching or incorporating the allegations of the petition as notice of the charges against the accused official.

(6) The determination of the Board of Directors on the sufficiency of the petition shall not be subject to the referendum provisions of Tribal Code Ch. 12.

#### **16.107 Hearing Board.**

(1) Upon a determination by the Board of Directors that the petition appears to be valid, the Chief Judge of the Tribal Court shall contact the person appointed by the Board of Directors to select the Hearing Board and the Hearing Officer in accordance with sub. (2) to initiate the selection and appointment process. The Chief Judge shall act as the Tribal liaison with the person appointed to do the selections and, once the Hearing Board and Hearing Officer are selected, to act as liaison with them as well.

(2) The Board of Directors shall appoint a person to select the Hearing Officer and the Hearing Board, and hereby appoints Kathryn L. Tierney to make the selections until such time as the Board shall change the appointment.

(3) The Hearing Board shall consist of three (3) attorneys who are licensed to practice law in at least one state, and who are not employees of the Tribe and have never had an attorney-client relationship with the Tribe, the petitioner, or a member of the Board of Directors, or who

have never provided advice to the Board of Directors in any capacity. Preference in selection shall be given to attorneys who are Native American and to attorneys who are knowledgeable about tribes and Native American law.

(4) The Hearing Officer shall be an attorney licensed to practice law in at least one state and who meets the criteria set forth for Hearing Board members in sub. (3). Preference in selection shall be given to an attorney who has judicial or similar experience, is Native American, and is knowledgeable about tribes and Native American law.

(5) The person making the appointments shall take reasonable steps to ascertain that the persons appointed meet all of the criteria set forth in this section. Upon completion of the appointment process, the appointing person shall prepare and submit to the Board of Directors a report concerning the appointment process.

#### **16.108 Review of Petition Signatures.**

The registrar's determination of the sufficiency of the number of signatures on the petition may be reviewed by the Hearing Officer prior to the initial hearing upon motion of the accused official. The Hearing Officer's review shall be conducted in camera, outside the presence of the parties, with the assistance of the registrar. The parties may be represented by attorneys during the in camera inspection, provided that the attorneys agree to keep the identity of the signatories confidential and not disclose them to their clients. The Hearing Officer and the attorneys shall maintain the confidentiality of the signatories. If the Hearing Officer determines that a petition contains less than 100 valid signatures or does not meet the requirements of §16.104, the Hearing Officer shall dismiss the petition.

#### **16.109 Initial Hearing.**

The Hearing Board shall convene at the date, time, and place set in the notice of hearing and hold the initial hearing as provided in this section. The Hearing Officer shall preside at the initial hearing. If circumstances warrant the Hearing Board may participate by teleconference, but the Hearing Officer shall preside in person. The initial hearing shall be for the purpose of:

- (1) if the accused official wishes to challenge the petition on its face, hearing arguments and ruling on the petition in accordance with §16.110;
- (2) scheduling of the hearing on the petition;
- (3) scheduling discovery, motions, and other preliminary matters;
- (4) expediting the disposition of the action and discouraging wasteful prehearing activities;

(5) any other matter that the parties, the Hearing Officer, or the Hearing Board wish to discuss concerning the hearing.

(6) The Hearing Officer may enter an order summarizing the results of the initial hearing.

**16.110 Standards for Determination of Petition.**

(1) In deciding a challenge to the petition on its face filed under §16.109(1), the Hearing Board shall determine whether the petition meets the criteria of §16.105, and whether the violations alleged in the petition would, if true, warrant removal of the accused official from office.

(2) In making the determination as to whether the violations alleged in the petition would, if true, warrant removal from office, the Hearing Board shall consider the nature of the conduct and the public interest of the Tribe, including, but not limited to, such factors as:

(a) the provisions of law violated;

(b) whether the conduct is a breach of public trust, abuse of authority, or official misconduct;

(c) whether the conduct evidences lack of integrity;

(d) whether the conduct contravenes or frustrates an important Tribal policy or interest; and

(e) whether the Tribe's interests or public trust and confidence in the Tribe or its officials would be impaired if the accused remained in office.

(3) If the petition contains more than one ground or count, the Hearing Board shall make a separate determination of the sufficiency of the allegations of each challenged count under sub. (1), and may dismiss or limit the grounds for particular counts. The determination under sub. (2) shall then be made based on the totality of the remaining counts.

**16.111 Hearing on the Petition.**

(1) The Hearing Officer shall preside over the hearing. The Hearing Officer shall afford the accused official all of the rights guaranteed under the Indian Civil Rights Act. The Hearing Officer shall conduct the hearing and shall rule on preliminary and procedural matters before and at the hearing. The Hearing Officer shall conduct the hearing in accordance with the rules of procedure applicable to civil proceedings in the Tribal Court and shall apply the rules of evidence applicable to civil proceedings in Michigan courts. The Hearing Officer shall not participate in the deliberations of or vote on the decision of the Hearing Board; provided, that if a

member of the Hearing Board shall become unable to serve in that capacity or participate in the deliberations and decision, the Hearing Officer shall do so in place of that member.

(2) In the event that issues concerning preliminary or procedural matters arise requiring resolution before the selection of the Hearing Officer, any member of the Hearing Board that has already been selected may hear and rule on the matter.

(3) If an issue arises prior to the hearing that involves the interpretation of a provision of the Tribal Constitution other than a provision of Article VIII, the Hearing Board shall refer the issue to the Board of Directors for their decision on the interpretation; provided, that no such issue need be referred if the referral would cause a delay in the proceedings.

(4) The Hearing Board shall conduct a hearing on the petition, which shall be open to the public. The hearing shall be held at the place and shall commence on the date and time specified at the initial hearing. If requested by the Hearing Board, the Hearing Officer may hear all or part of the testimony or review all or part of the evidence and make findings of fact for the Hearing Board. An audio recording of the hearing shall be made in the same manner as for hearings in Tribal Court, and the hearing shall be videotaped in the same manner as for meetings of the Board of Directors.

(5) The Hearing Officer shall have the same power to swear witnesses and take testimony under oath and to issue process to compel the attendance of witnesses and the production of documents or other evidence, and to impose the same sanctions for failure to comply, as at a criminal proceeding under Chapters 70 and 71 of the Tribal Code. This power shall extend to tribal officials, and to documents and other evidence in the possession of the Tribe, notwithstanding claims of sovereign immunity.

(6) The parties to the proceeding shall be the principal sponsor, who shall be designated as the petitioner, and the accused official, who shall be designated as the respondent. Each of the parties shall have the right to be represented by counsel of their own choosing at his or her own expense.

(7) The petitioner shall have the burden of going forward with the evidence and the burden of proving the allegations of the petition by clear and convincing evidence.

(8) Each of the parties shall have the right to appear at the hearing, to present evidence and argument, and to call and examine witnesses. The accused official shall have the right to address the Hearing Board regarding the petition.

(9) The Hearing Board shall decide whether the accused official shall be removed from office by majority vote of those present and voting, applying the standards set forth in §16.110(2). The Hearing Board shall prepare a written decision setting forth its basic findings of fact and the reasons for its decision, which may be prepared with the assistance of the Hearing Officer. The decision shall be recorded by the Hearing Officer and certified to the Board of Directors. The decision shall be rendered within 60 days after the initial hearing. The decision of the Hearing Board shall be final.

**16.112 Improper Contact with Hearing Officer or Hearing Board.**

(1) The Hearing Officer and the members of the Hearing Board shall not have any ex parte contact with the petitioner, the respondent, counsel for either party, or any other person concerning the proceedings; provided, that nothing shall prohibit contact by the Hearing Officer with counsel for either party (or a party, if not represented by counsel) concerning routine matters of administration of the proceedings. If any such contact is made or attempted to be made, the Hearing Officer or member of the Hearing Board shall report the contact or attempt to the Hearing Board and to the Board of Directors.

(2) No person shall contact the Hearing Officer or any member of the Hearing Board with the intent of influencing the course or outcome of the proceedings under these Procedures.

(3) Except as provided in sub. (1), the petitioner and respondent shall make no contact, directly or indirectly, or cause contact to be made, with the Hearing Officer or any member of the Hearing Board with the intent of influencing the course or outcome of the proceedings under these Procedures.

(4) No person shall contact the person appointed by the Board of Directors to select the Hearing Officer and Hearing Board, directly or indirectly, with the intent of influencing the selection process or the choices to be made by the appointed person; provided, that the appointed person may seek recommendations for appointees from persons who are not connected with the Tribal government or administration.

(5) As used in this section, "contact" includes any form of oral or written communication, including without limitation oral contact, written communication, phone calls, e-mails, voicemail, or voice messages.

(6) Any person who violates the provisions of this section may be sentenced to imprisonment not to exceed three (3) months, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both. In addition, violation of this section by a member of the Board of Directors shall constitute a violation of Tribal law upon which a petition for removal from office may be based.

**16.113 Application and Effective Date.**

This Chapter shall take effect on the date of its enactment and shall govern any petition filed with the Board of Directors after the effective date. It shall not apply to any proceedings on a petition filed prior to the effective date.

**16.114 Repealer.**

Resolution No. 2003-57, Establishing Interim Hearing Board Procedures, is repealed as of the effective date of this Chapter, except that it shall continue to apply to any proceedings on a petition filed prior to the effective date.

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**Removal Petition**

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**TRIBAL CODE**

**CHAPTER 16:**

**REMOVAL FROM OFFICE**

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**HISTORY NOTE:**

Current Ordinance:

Resolution 2004-78, adopted August 3, 2004, adopts Tribal Code Chapter 16: Removal From Office, effective immediately, and rescinds all earlier Removal from Office Codes.

Prior Ordinances:

Enacted on June 3, 2003, by Resolution 2003-83 adopting Tribal Code Chapter 16: Removal from Office, effective immediately.

Amendments:

Resolution 2007-62, adopted April 17, 2007 amends Chapter 16: Effect of Resignation §16.104 (7).

Resolution 2003-89, adopted June 17, 2003 amends Chapter 16: Removal from Office by repealing §16.105 (4).

TRIBAL CODE

CHAPTER 16

REMOVAL FROM OFFICE

16.101 Purpose and Scope.

The purpose of this Chapter is to implement Tribal Constitution article VI by providing procedures for determining petitions for removal from office of Tribal-elected officials. [This Ordinance](#) governs proceedings for removal initiated after the effective date of this Chapter.

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16.102 Findings.

The Board of Directors finds that:

(1) The Tribal Constitution and Bylaws provides for a democratically elected Chairperson and Board of Directors, with fixed terms of office. It permits removal from office upon petition by eligible voters alleging specific facts which show a violation of tribal law, after provision of notice and a hearing on the charges before a specially-convened hearing board.

(2) The provisions of Tribal Constitution article VI provide the sole remedy to tribal members for removal of elected officials from office. Removal of officials elected by tribal members is disfavored and is warranted only in serious circumstances.

(3) The requirement of allegations of specific facts showing a violation of tribal law, contained in Tribal Constitution article VI, section 3, is intended to provide the accused with fair notice of the charges against him or her, to allow for a determination whether the allegations would warrant removal if proven, to safeguard elected officials against spurious accusations, and to inform the accused official of the facts which will be at issue at the hearing.

(4) [That article VI, section 4, of the Constitution does not define the term "Hearing Board."](#)

(5) [That because removal of an elected official not only impacts the official, but the entire Tribe, it is incumbent upon the Board of Directors to establish a removal process that encompasses important notions of due process and justice and provides adequate safeguards to those accused of wrongdoing.](#)

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**16.103 Definitions.**

As used in this Chapter:

(1) "Accused official" means the member of the Board of Directors or the Chairperson who is the subject of a removal petition filed in accordance with Tribal Constitution article VI, section 3.

(2) "Eligible voter" means any enrolled member of the Tribe who is eighteen years of age or older, and who is [registered to vote in accordance with the Tribal Election Ordinance](#).

(3) "Hearing Board" means the body created under §16.107(3) of this Chapter for the purpose of [a hearing of the charges in the petition against the accused official](#).

(4) "Hearing Officer" means the person identified under §16.107(4) of this Chapter as the person to preside over the [hearing on the charges in the petition against the accused official](#).

(5) "Secretary" means the Tribal Recording Secretary and staff working under the Tribal Secretary's direction.

(6) "Conviction" means [an entry of judgment of conviction by a court with jurisdiction over the person so convicted](#).

**16.104 Initiation of Proceedings.**

(1) Proceedings under this Chapter are commenced with the filing with the Board of Directors of a petition seeking the removal of the chairperson or board member. A petition may not request the removal of more than one official. Filing of a petition shall take place at a regular or special meeting of the Board of Directors. The filing of a petition constitutes receipt of a petition within the meaning of Tribal Constitution article VI, section 4(a).

(2) A removal petition shall have a principal sponsor, who shall act as the petitioner for purposes of any hearing held on the petition. The principal sponsor shall be a qualified and registered voter of the Tribe. The name of the principal sponsor shall appear on each page of the petition along with their mailing address and telephone number. The principal sponsor is responsible to oversee the initiation of the circulated petition and for compliance with the provisions of this Chapter. Along with the petition the principal sponsor shall submit a statement signed under penalty of perjury that to the best of his or her knowledge and belief each page of the petition was circulated by a qualified circulator and complies with the provisions of sub. (3).

(3) Signatures on the petition shall be solicited only by qualified circulators, who shall be eligible voters of the Tribe. Each page circulated shall contain a certification by the qualified circulator of that page that he or she is a qualified circulator and that to the best of his or her knowledge and belief no signature on the petition was obtained through fraud, deceit, or misrepresentation; he or she has neither caused nor permitted a person to sign the petition more

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than once; he or she has no knowledge of a person signing the petition more than once; each signature is the genuine signature of the person purporting to sign the petition; the signer was an eligible voter of the Tribe residing at the address shown; and that the signature was solicited and obtained in compliance with this Chapter.

(4) The principal sponsor and the accused official shall be required to file with the Secretary of the Board of Directors a full disclosure of all funding and services received from any source other than the principal sponsor's or accused official's own funds. The disclosure shall disclose the name and address of each person or entity contributing funds or services (and the value of those services). A disclosure shall be filed with the petition and weekly thereafter until the entire matter is resolved. The disclosure shall be signed under penalty of perjury. The penalty for perjury under this section shall include, but not be limited to, a fine of no less than \$1,000.00 and no more than \$5,000.00.

(a) Any contributions received by the principal sponsor shall be limited to \$250.00 per tribal member in accordance with the Tribal Election Ordinance, section 10.112(2)(e).

(b) Financing or contributions in support of a removal petition shall be limited to Tribal member contributions. The principal sponsor shall not take contributions or financing from any non-tribal source.

(c) Intentional violation of this section of the Ordinance by the principal sponsor shall result in dismissal of the petition.

(d) Intentional violation of this section of the Ordinance by the accused official may be considered a ground for removal.

(5) At all times throughout the process identified in this Chapter, the petition and signatures attached thereto shall be a public record.

(6) All matters concerning the petition shall be heard publicly and conducted in open session.

(7) Once a petition for removal is filed pursuant to this section, the subsequent resignation of the accused official shall have no effect upon these proceedings.

**16.105 Contents of Petition.**

(1) The petition shall contain a statement of specific facts which, if true would constitute a violation of tribal law specified in sub. (3), together with a citation to the provision of the Constitution and Bylaws, ordinance, or resolution violated. The allegations must provide facts which, if true, would establish each element of the violation alleged and which provide sufficient detail so that the accused official can reasonably determine the conduct with which he or she is charged.

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(2) A petition may not include more than one ground for removal.

(3) Violations of the following shall constitute the only grounds, which a petition for removal may be based upon:

(a) Violation of the Constitution and Bylaws.

(b) Violation of the Tribal Code Ch. 10: Election Ordinance, or Tribal Code Ch. 96: Open Meetings Ordinance.

(c) Violation of any other ordinance or resolution that specifically provides that its violation may constitute grounds for removal from office.

(d) A criminal conviction in state, Federal, or Tribal Court.

(4) If the accused official is a member of the Board of Directors, the petition must be signed by a number of eligible voters equal to or greater than one hundred (100) or 10% of the votes cast in that unit in the last election, whichever is greater. Only original signatures shall be submitted in the petition.

(5) If the accused official is the Chairperson, the petition must be signed by a number of eligible voters equal to or greater than one hundred (100) or 10% of the votes cast for Chairperson in the last election, whichever is greater. Only original signatures shall be submitted in the petition.

**16.106 Procedure Upon Filing of Petition.**

(1) The Secretary shall maintain the original petition at all times. The allegations contained in the petition shall be made public. Information identifying the signatories to the petition shall be made public.

(a) The Secretary shall deliver within two business days by United States mail to the accused official and each member of the Board of Directors a copy of the petition.

(2) As soon as practicable after the filing of the petition, the Secretary shall refer the petition to the Tribal Registrar, who shall make a determination of whether the petition contains the requisite number of signatures of eligible voters. The Registrar shall review the petition and Tribal voter registration records under standards and procedures utilized for the verification of signatures on nominating petitions for Tribal elections conducted under Tribal Code Ch. 10. The Registrar shall certify the determination to the Board of Directors at least five (5) days before the date of the meeting at which the Board of Directors will consider the petition.

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(a) Immediately upon certification by the Tribal Registrar of the signatures, the names and addresses of all those signing the Petition shall be released to the accused official.

(3) The Board of Directors shall consider the petition within fifteen (15) days of its receipt of the petition at a regular meeting or a special meeting called for that purpose. The Board of Directors shall consider the petition in an open meeting.

(4) The Board of Directors shall determine whether the petition, on its face, appears to meet the criteria of §16.105. The Board of Directors may, in its discretion, request the opinion of the Legal Department or outside counsel on the facial sufficiency of the petition. If the Board of Directors determines that the petition appears to be insufficient, it shall dismiss the petition.

(5) If the Board of Directors determines after the presentation of evidence by the principal sponsor that the petition is supported by probable cause, the Board of Directors shall set the date, time, and place for the initial hearing and direct the Secretary to prepare and serve a notice of hearing upon the accused official stating the date, time and place of the initial hearing and attach the allegations of the petition as notice of the charges against the accused official.

(6) The determination of the Board of Directors on the sufficiency of the petition shall not be subject to the referendum provisions of Tribal Code Ch. 12.

### 16.107 Hearing Board.

(1) Upon a determination by the Board of Directors that the petition appears to be valid in accordance with section 16.106(4), the Chief Judge of the Tribal Court shall contact the person appointed by the Board of Directors to select a Hearing Board and the Hearing Officer in accordance with sub. (2) in order to initiate the selection and appointment process. The Chief Judge shall act as the Tribal liaison with the person appointed to do the selections and, once the Hearing Board and Hearing Officer are selected, to act as liaison with them as well.

(a) If more than one petition is filed against the same accused official, the Board of Directors may consolidate the petitions into one or more hearings.

(2) The Board of Directors shall appoint a person to select the Hearing Officer and the Hearing Board.

(3) The Hearing Board shall consist of three (3) attorneys who are licensed to practice law in at least one state, and who are not employees of the Tribe and have never had an attorney-client relationship with the Tribe, the petitioner, or a member of the Board of Directors, or who have never provided advice to the Board of Directors in any capacity. Preference in selection shall be given to attorneys who are Native American and to attorneys who are knowledgeable about tribes and Native American law.

(4) The Hearing Officer shall be an attorney licensed to practice law in at least one state and who meets the criteria set forth for Hearing Board members in sub. (3). Preference in

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selection shall be given to an attorney who has judicial or similar experience, is Native American, and is knowledgeable about tribes and Native American law.

(5) The person making the appointments shall take reasonable steps to ascertain that the persons appointed meet all of the criteria set forth in this section. Upon completion of the appointment process, the appointing person shall prepare and submit to the Board of Directors a report concerning the appointment process within two (2) business days.

### 16.108 Review of Petition Signatures.

The accused official shall have the right to challenge the signatures on the petition. Any challenge to the sufficiency, authenticity or validity of the signatures on the petition shall be made by motion. If the accused official makes a motion challenging the signatures, the Hearing Officer shall hear such motion prior to the Hearing, in a public hearing. The accused official and the principal sponsor shall have the right to call witnesses at the motion hearing. If the Hearing Officer determines that a petition contains less than the required number of signatures or does not meet the requirements of §16.104, the Hearing Officer shall dismiss the petition.

### 16.109 Initial Hearing.

The Hearing Board shall convene at the date, time, and place set in the notice of hearing and hold the initial hearing as provided in this section. The Hearing Officer shall preside at the initial hearing. If circumstances warrant, the Hearing Board may participate by teleconference, but the Hearing Officer shall preside in person. The initial hearing shall be for the purpose of:

(1) if the accused official wishes to challenge the petition on its face, hearing arguments and ruling on the petition in accordance with §16.110;

(2) if the accused official wishes to challenge the make-up of the Hearing Board, hearing arguments and ruling on the make-up of the Hearing Board in accordance with §16.107;

(3) scheduling of the hearings on the petition;

(4) scheduling discovery, motions, and other preliminary matters;

(5) expediting the disposition of the action and discouraging wasteful prehearing activities;

(6) any other matter that the parties, the Hearing Officer, or the Hearing Board wish to discuss concerning the hearing.

(7) The Hearing Officer may enter an order summarizing the results of the initial hearing.

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**16.110 Standards for Determination of Petition.**

(1) In deciding a challenge to the petition on its face filed under §16.109(1), the Hearing Board shall determine whether the petition meets the criteria of §16.105, and whether the violation alleged in the petition would, if true, warrant removal of the accused official from office.

(2) In making the determination as to whether the violation alleged in the petition would, if true, warrant removal from office, the Hearing Board shall consider the nature of the conduct and the public interest of the Tribe, including, but not limited to, such factors as:

(a) the provision of law violated, or in the case of a criminal conviction, the crime for which the accused official was convicted;

(b) whether the conduct is a breach of public trust, abuse of authority, or official misconduct;

(c) whether the conduct evidences lack of integrity;

(d) whether the conduct contravenes or frustrates an important Tribal policy or interest; and

(e) whether the Tribe's interests or public trust and confidence in the Tribe or its officials would be impaired if the accused remained in office.

(f) the credibility of parties and witnesses;

(g) whether there is bias or prejudice on the part of any party or witness.

**16.111 Hearing on the Petition.**

(1) The Hearing Officer shall preside over the hearing. The Hearing Officer shall afford the accused official all of the rights guaranteed under the Indian Civil Rights Act and the United States Constitution. The Hearing Officer shall conduct the hearing and shall rule on preliminary and procedural matters before and at the hearing. The Hearing Officer shall conduct the hearing in accordance with the rules of procedure applicable to civil proceedings in federal courts and shall apply the rules of evidence applicable to civil proceedings in federal courts. The Hearing Officer shall not participate in the deliberations of or vote on the decision of the Hearing Board; provided, that if a member of the Hearing Board shall become unable to serve in that capacity or participate in the deliberations and decision, the Hearing Officer shall do so in place of that member.

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(2) In the event that issues concerning preliminary or procedural matters arise requiring resolution before the selection of the Hearing Officer, any member of the Hearing Board that has already been selected may hear and rule on the matter.

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(3) If an issue arises at any stage during the hearing that involves the interpretation of a any provision of the Tribal Constitution, the Hearing Board shall have the authority to interpret the provision. Such interpretation shall have no precedential value.

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(4) The Hearing Board shall conduct a hearing on the petition, which shall be open to the public. The hearing shall be held at the place and shall commence on the date and time specified at the initial hearing. If requested by the Hearing Board, the Hearing Officer may hear all or part of the testimony or review all or part of the evidence and make findings of fact for the Hearing Board. An audio recording of the hearing shall be made in the same manner as for hearings in Tribal Court, and the hearing shall be videotaped in the same manner as for meetings of the Board of Directors.

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(5) The Hearing Officer shall have the same power to swear witnesses and take testimony under oath and to issue process to compel the attendance of witnesses and the production of documents or other evidence, and to impose the same sanctions for failure to comply, as at a criminal proceeding under Chapters 70 and 71 of the Tribal Code. This power shall extend to tribal officials, and to documents and other evidence in the possession of the Tribe, notwithstanding claims of sovereign immunity.

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(6) The parties to the proceeding shall be the principal sponsor, who shall be designated as the petitioner, and the accused official, who shall be designated as the respondent. Each of the parties shall have the right to be represented by counsel of their own choosing at his or her own expense.

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(7) The petitioner shall have the burden of going forward with the evidence and the burden of proving the allegations of the petition by clear and convincing evidence.

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(8) Each of the parties shall have the right to appear at the hearing, to present evidence and argument, and to call and examine witnesses. The accused official shall have the right to address the Hearing Board regarding the petition.

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(9) The Hearing Board shall decide whether the petitioner met the burden of proof and whether the violation is sufficient to warrant that the accused official should be removed from office, applying the standards set forth in §16.110(2). The decision must be supported by a majority. The Hearing Board shall prepare a written decision setting forth its findings and the reasons for its decision, which may be prepared with the assistance of the Hearing Officer. The decision shall be recorded by the Hearing Officer and certified to the Board of Directors. The decision shall be rendered within 60 days after the initial hearing. The decision of the Hearing Board shall be final.

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**16.112. Improper Contact with Hearing Officer or Hearing Board.**

(1) The Hearing Officer and the members of the Hearing Board shall not have any *ex parte* contact with the principal sponsor, the accused official, counsel for either party, or any other person concerning the proceedings; provided, that nothing shall prohibit contact by the Hearing Officer with counsel for either party (or a party, if not represented by counsel) concerning routine matters of administration of the proceedings. If any *ex parte* contact is made or attempted to be made, the Hearing Officer or member of the Hearing Board shall report the contact or attempt to the Hearing Board and to the Board of Directors.

(2) No person shall contact the Hearing Officer or any member of the Hearing Board with the intent of influencing the course or outcome of the proceedings under these Procedures.

(3) Except as provided in sub. (1), the principal sponsor and accused official shall make no contact, directly or indirectly, or cause contact to be made, with the Hearing Officer or any member of the Hearing Board with the intent of influencing the course or outcome of the proceedings under these procedures.

(4) No person shall contact the person appointed by the Board of Directors to select the Hearing Officer and Hearing Board, directly or indirectly, with the intent of influencing the selection process or the choices to be made by the appointed person; provided, that the appointed person may seek recommendations for appointees from persons who are not connected with the Tribal government or administration.

(5) As used in this section, “contact” includes any form of oral or written communication, including without limitation oral contact, written communication, phone calls, e-mails, voicemail, or voice messages.

(6) Any person who violates the provisions of this section may be sentenced to imprisonment not to exceed three (3) months, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or both. In addition, violation of this section by a member of the Board of Directors shall constitute a violation of Tribal law upon which a petition for removal from office may be based.

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**16.113. Frivolousness.**

The Hearing Board shall have the authority to sanction the principal sponsor, the accused official or any attorney or other person appearing before it for presenting to the Hearing Board any paper or taking any action for an improper purpose, presenting claims or defenses which do not have evidentiary support or a basis in existing law or a good faith argument for the extension of existing law. The Hearing Board may apply Rule 11 of the Federal Rules of Civil Procedure by analogy.

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**16.114 Application and Effective Date.**

This Chapter shall take effect on the date of its enactment and shall govern any petition filed with the Board of Directors after the effective date. It shall not apply to any proceedings on a petition filed prior to the effective date.

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**16.115 Repealer.**

Resolution No. 2003-57, Establishing Interim Hearing Board Procedures, is repealed as of the effective date of this Chapter, except that it shall continue to apply to any proceedings on a petition filed prior to the effective date.

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# Sault Tribe Drug-Free Workplace Policy

## Purpose

1. The Drug-Free Workplace Policy prohibits employees from unlawfully manufacturing, distributing, dispensing, possessing or being under the influence of any Prohibited Drug while on the premises of any tribal workplace **under U.S. Federal laws and regulations.**
2. The Substance Abuse Policy prohibits employees from reporting to work with detectable levels of Prohibited Drugs.
3. In adopting the Drug-Free Workplace Policy and the Substance Abuse Policy, the Tribe recognized that drug abuse by employees adversely impacts the tribal workplace by promoting an unsafe work environment and lowering productivity.
4. The Tribe seeks to maintain a safe and efficient workplace and this Policy and Procedures is necessary to achieve this goal.
5. The Tribe declares that in adopting this Policy and Procedures it seeks to strike a balance between the privacy interests of employees and the Tribe's special need to maintain a safe and efficient workplace.
6. The Tribe declares that it has special need to require Random Drug Tests of all employees and that it has the right to require all Applicants to consent to Pre-employment Drug Tests and to require all employees to submit to Reasonable Suspicion Tests.

## Scope

1. This Policy and Procedures applies to all employees, except that it shall not apply to employees who are subject to the drug testing under 49 C.F.R. Part 382, relating to drivers of commercial motor vehicles. In determining a course of action or resolving an issue not addressed in this Policy and Procedures, the Human Resources Department, Tribal Health Center Laboratory and Reference Laboratory may look to 49 C.F.R. Part 40 for guidance.
2. This Policy and Procedures states time limits relating to drug testing. All entities, departments and individuals involved in administering this Policy and Procedures, including without limitation, the Tribal Health Center Laboratory, Reference Laboratory and Human Resources Department are expected to follow the time limits contained herein, provided however, that any failure to follow any such time limit(s) shall not prevent a test from being administered or invalidate any test.

## **Definitions**

1. Applicant means any person seeking employment in the Tribe, including any employee attempting to be transferred to another position.
2. Confirmatory Drug Test means the test using the gas chromatography or mass spectrometry technique conducted by the Reference Laboratory that is used to confirm the accuracy of the Initial Drug Test.
3. Follow-up Drug Test means the test(s) that occurs after a Covered Employee has engaged in Prohibited Conduct and has returned to work in a Covered Employment Position.
4. Initial Drug Test means the initial test conducted by the Tribal Health Center Laboratory or the Reference Laboratory to screen and eliminate negative samples from further analysis.
5. Invalid Drug Test means a drug test declared invalid by the Reference Laboratory because the test resulted in neither a Positive Drug Test nor a Negative Drug Test, and which will be followed by a Confirmatory Drug Test if occurring in an Initial Drug Test or will result in a Verified Negative Drug Test if occurring in a Confirmatory Drug Test.
6. Medical Review Officer (MRO) means a licensed physician responsible for reviewing each Confirmatory Drug Test which results in a Positive Drug Test, who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate a Positive Drug Test together with additional relevant information.
7. Negative Drug Test means lack of a finding of a Prohibited Drug in the sample at threshold detection levels as determined by the Tribal Health Center Laboratory or the Reference Laboratory.
8. Positive Drug Test means a finding of the presence of a Prohibited Drug **under U.S. Federal laws and regulations** in the sample at threshold detection levels as determined by the Tribal Health Center Laboratory or the Reference Laboratory.
9. Pre-Employment Drug Test means the test that occurs before an Applicant is hired.
10. Prohibited Conduct means any of the following:
  - a. submitting to an Initial Drug Test with a Verified Positive Drug Test;
  - b. refusing to submit to an Initial Drug Test;
  - c. intentionally failing to comply with testing instructions or otherwise interfering with an Initial Drug Test; including without limitation, adulterating the sample;

- d. refusing to cooperate or failing to comply with a supervisor's instructions regarding transportation, as required under Reasonable Suspicion Testing.
- 11. Prohibited Drug means marijuana, cocaine, opiates, amphetamines, phencyclidine, synthetic drugs, designer drugs, prescription drugs obtained without a valid prescription or any other illegal drug not specifically listed herein **under U.S. Federal laws and regulations.**
- 12. Random Drug Test means the suspicionless drug test that occurs when the Human Resources Department randomly selects a sufficient number of all employees for testing.
- 13. Reasonable Suspicion Drug Test means the drug test that occurs when an employee's supervisor has reasonable suspicion to believe that the employee has violated the Drug-Free Workplace Policy or Substance Abuse Policy.
- 14. Reference Laboratory means the independent testing laboratory utilized to conduct Initial Drug Tests and Confirmatory Drug Tests.
- 15. Return-to-Duty Drug Test means the test that occurs before an employee returns to work in a after being absent from or otherwise not working for a period of three (3) months.
- 16. Tribal Health Center Laboratory means the laboratory located at the Tribal Health Center located at 2864 Ashmun Street, Sault Ste. Marie, Michigan.
- 17. Verified Negative Drug Test means the following:
  - a. Negative Drug Test in an Initial Drug Test;
  - b. Negative Drug Test or Invalid Drug Test in a Confirmatory Drug Test; or
  - c. Positive Drug Test in a Confirmatory Drug Test that is declared to be a Negative Drug Test by the MRO because of a legitimate medical explanation.
- 20. Verified Positive Drug Test means a Positive Drug Test in an Initial Drug Test that is verified by all of the following:
  - a. Confirmatory Drug Test; and
  - b. the MRO.

**Drug Testing**

1. Permitted Drug Testing

a. Reasonable Suspicion Drug Testing

- i. An employee must immediately submit to an Initial Drug Test if a supervisor so instructs the employee based upon reasonable suspicion that the employee has violated the Drug-Free Workplace Policy or Substance Abuse Policy.
- ii. Reasonable suspicion shall be determined based upon specific, contemporaneous and articulable observations of the employee, including the appearance, behavior, speech and body odors of the employee.
- iii. An employee's supervisor shall ensure that a Reasonable Suspicion Drug Test is administered within eight (8) hours following the determination of reasonable suspicion.
- iv. If the sample is to be collected at a location other than the employee's place of employment the employee's supervisor shall arrange for appropriate transportation of the employee to such location.
- v. After a sample is collected, the employee's supervisor shall arrange for appropriate transportation of the employee.

b. Pre-Employment Drug Testing

- i. An Applicant must submit to Pre-Employment Drug Testing after accepting a conditional offer of employment.
- ii. The Tribe shall be responsible for the cost of any Pre-Employment Drug Testing.
- iii. The Human Resources Department shall inform all Applicants that they are required to submit to Pre-Employment Drug Testing after accepting a conditional offer of employment and shall schedule the time of the testing within twenty four (24) hours of notifying an Applicant.

c. Random Drug Testing

- i. All Employees' are subject to Random Drug Testing. Approximately 33 team members shall be tested each month.
- ii. An Employee selected for Random Drug Testing must submit to Initial Drug Testing at the scheduled date and time. All Random Drug Testing shall occur no later than twenty four (24) hours after the Employee has received notice of selection for testing from the Director of Human Resources, or designee.
- iii. If the Human Resources Department is unable to notify an Employee selected for Random Drug Testing because the Employee is absent from work because of vacation, sick leave or other permitted compensable leave or other acceptable reason at the time of selection for the drug test, the Employee shall be excluded from that particular Random Drug Testing.
- iv. The selection of Employees for Random Drug Testing shall be made by a scientifically valid method, such as a computer-based random number generator that is matched with employees' social security numbers, payroll identification numbers or other comparable identifying numbers. Under the selection process used, each Employee shall have an equal chance of being tested each time selections are made. The Director of Human Resources, or designee, is responsible for selecting ~~Covered~~ Employees for Random Drug Testing.
- v. The Director of Human Resources, or designee, shall ensure that dates and times of Random Drug Testing are kept confidential until the randomly selected ~~Covered~~ Employees are notified.

d. Return-to-Duty Drug Testing

- i. An Employee who has been absent, or otherwise has not worked for a period of three (3) months, for any reason, must submit to a Return-to-Duty Drug Test with a Verified Negative Drug Test to be eligible to work.
- ii. An Employee who is absent from work under the Family and Medical Leave Act shall not be subject to a Return-to-Duty Drug Test before returning to work.

e. Follow-up Drug Testing

- i. An Employee who engages in Prohibited Conduct is subject to unannounced Follow-up Drug Testing for a period of two (2) years.
- ii. The Director of Human Resources, or designee, shall keep a record of all Employees subject to Follow-up Drug Testing and shall select Employees for Follow-up Drug Testing in accordance with the selection provisions for Random Drug Testing, except that the minimum annual percentage rate for Employees subject to Follow-up Drug Testing shall be at least twenty five percent (25%) of all Employees subject to such testing.

## 2. Collection of Samples

- a. All Initial Drug Tests for Reasonable Suspicion Testing shall be conducted on samples collected by employees who are trained in the collection of samples.
- b. All Initial Drug Tests for Pre-Employment Drug Testing **and ,~~Random Drug Testing~~**, Return-to-Duty Drug Testing, **and ~~Follow-up Drug Testing~~** shall be conducted on samples collected by the Tribal Health Center Laboratory or other Tribal health center or **approved** clinic locations.
- c. All collection of samples for Initial Drug Tests shall be conducted in accordance with clear and well developed collection and chain of custody procedures.
- d. All collection of samples for Initial Drug Tests for Reasonable Suspicion Testing, **Random Drug Testing and Follow-up Drug Testing** shall occur in a private location such as a supervisor's office **or surveillance**.

## 3. Testing Laboratory

- a. All Initial Drug Tests for Reasonable Suspicion Testing and all Confirmatory Drug Testing shall occur at the Reference Laboratory and shall be conducted in accordance with clear and well documented chain of custody, testing and reporting procedures adopted by the Reference Laboratory.
- b. All Initial Drug Tests for Pre-Employment Drug Testing, Random Drug Testing, Return-to-Duty Drug Testing, and Follow-up Drug Testing shall occur at the Tribal Health Center Laboratory and shall be conducted in accordance with clear and well developed chain of custody, testing and reporting procedures adopted by the Tribal Health Center Laboratory.
- c. The Tribal Health Center Laboratory and the Reference Laboratory have the authority to amend all collection, chain of custody, testing and reporting procedures

provided such procedures comply with this Policy and Procedures and applicable law.

~~4. Drug Test Disclosure Form~~

~~a. Before a sample is collected from an employee or Applicant, the employee or Applicant must complete a Drug Test and Disclosure Form.~~

~~b. The Drug Test Disclosure Form shall require the employee or Applicant to list all over the counter and prescribed medications that the employee or Applicant is taking and any other information relevant to the reliability of, or explanation for, a Positive Drug Test.~~

4. Prescription medication

a. No information shall be collected from the employee/applicant concerning prescription medications at the time of the testing

b. The employee/applicant will be contacted by an MRO regarding any prescription information at the number they provide on the Chain of Custody form.

5. Drug Testing Sequence

a. Initial Drug Test for Reasonable Suspicion Drug Testing

i. The Reference Laboratory shall conduct an Initial Drug Test within one (1) business day of receiving a sample.

ii. The Reference Laboratory shall submit a written test report to the Director of Human Resources, or designee, within one (1) business day after an Initial Drug Test results in a Negative Drug Test. The written test result report shall indicate that the Initial Drug Test resulted in a Verified Negative Drug Test.

iii. The Reference Laboratory shall submit a written test report to the Director of Human Resources, or designee, within one (1) business day after an Initial Drug Test results in a Positive Drug Test. The written test report shall indicate that the Initial Drug Test resulted in a Positive Drug Test; and therefore, a Confirmatory Drug Test will be conducted.

iv. The Reference Laboratory shall submit a written test report to the Director of Human Resources, or designee, within one (1) business day after an Initial Drug Test results in an Invalid Drug Test. The written test report shall

indicate that the Initial Drug Test resulted in an Invalid Drug Test; and therefore, a Confirmatory Drug Test will be conducted.

b. Initial Drug Test for all Other Types of Drug Testing

- i. The Tribal Health Center Laboratory shall conduct the Initial Drug Test within one (1) business day of collecting or receiving a sample, as applicable.
- ii. The Tribal Health Center Laboratory shall submit a written test report to the Director of Human Resources, or designee, within one (1) business day after an Initial Drug Test results in a Negative Drug Test. The written test report shall indicate that the Initial Drug Test resulted in a Verified Negative Drug Test.
- iii. The Tribal Health Center Laboratory shall submit a written test report to the Director of Human Resources, or designee, within one (1) business day after an Initial Drug Test results in a Positive Drug Test. The written test report shall indicate that the Initial Drug Test resulted in a Positive Drug Test; and therefore, a Confirmatory Drug Test will be conducted. In addition, the Tribal Health Center Laboratory shall submit the sample, the written test report and a copy of the Drug Test Disclosure Form to the Reference Laboratory.
- iv. The Tribal Health Center Laboratory shall submit a written test report to the Director of Human Resources, or designee, within one (1) business day after an Initial Drug Test results in an Invalid Drug Test. The written test report shall indicate that the Initial Drug Test resulted in an Invalid Drug Test; and therefore, a Confirmatory Drug Test will be conducted. In addition, the Tribal Health Center Laboratory shall submit the sample, the written test report and a copy of the Drug Test Disclosure Form to the Reference Laboratory.

c. Confirmatory Drug Test

- i. The Reference Laboratory shall conduct the Confirmatory Drug Test within one (1) business day after an Initial Drug Test results in either a Positive Drug Test or an Invalid Drug Test or within one (1) business day of receiving the sample, the written test report and copy of the Drug Test Disclosure Form from the Tribal Health Center Laboratory.
- ii. If a Confirmatory Drug Test results in a Negative Drug Test, the test shall be deemed to be a Verified Negative Drug Test. In such case, the Reference Laboratory shall submit a written test report to the Director of Human

Resources, or designee, one (1) business day after finding a Verified Negative Drug Test. The written test report shall indicate that the Confirmatory Test resulted in a Verified Negative Drug Test.

- iii. If a Confirmatory Drug Test results in a Positive Drug Test, the Reference Laboratory shall submit the written test report and a copy of the Drug Test Disclosure Form to the MRO within one (1) business day after completion of the Confirmatory Drug Test. The written test report shall indicate that the Confirmatory Test resulted in a Positive Drug Test, and therefore, MRO review must occur.
- iv. If a Confirmatory Drug Test results in an Invalid Drug Test, the test shall be deemed to be a Verified Negative Drug Test. The Reference Laboratory shall submit a written test report to the Director of Human Resources, or designee, within one (1) business day after finding a Verified Negative Drug Test. The written test report shall indicate that the Confirmatory Test resulted in an Invalid Drug Test, and therefore, must be considered a Verified Negative Drug Test.

d. MRO Review

- i. A Positive Drug Test in a Confirmatory Drug Test does not automatically identify an employee or Applicant as having engaged in Prohibited Conduct. The MRO must review and interpret all Positive Drug Tests in Confirmatory Drug Tests to determine whether a medical explanation exists for such results. The review conducted by the MRO shall include evaluating all information contained in the Drug Test Disclosure Form and contacting an employee or Applicant to acquire additional relevant information. If the MRO is unable to contact an employee or Applicant after making at least three (3) documented attempts to do so, the MRO may designate a Confirmatory Drug Test as having a Verified Positive Drug Test result without having communicated with the employee or Applicant.
- ii. The MRO shall complete the review within two (2) business days after receipt of the Reference Laboratory's written test report and a copy of the signed Drug Test Disclosure Form. The MRO shall submit a written report to the Director of Human Resources, or designee, within one (1) business day after making a determination. The written report shall indicate either that a legitimate explanation exists for the Positive Drug Test, and therefore, the test resulted in a Verified Negative Drug Test or that a legitimate explanation does not exist for the Positive Drug Test, and therefore, the test resulted in a Verified Positive Drug Test.

6. Leave of Absence Pending Further Testing and Review

a. Disciplinary Leave of Absence

- i. If an employee ~~working in a position other than a Covered Employment Position~~ submits to an Initial Drug Test with a Positive Drug Test result, the employee shall continue to serve in the position pending completion of the Confirmatory Drug Test and any MRO review.
- ii. If an employee submits to an Initial Drug Test with a Positive Drug Test result in a Random Drug Test or Follow-up Drug Test, the employee shall continue to serve in employment position pending completion of the Confirmatory Drug Test and any MRO review.
- iii. If an employee submits a Return-to-Duty Drug Test that results in a Verified Positive Drug Test, the employee shall be subject to disciplinary action under this Policy and Procedures.
- iv. If an employee submits to an Initial Drug Test with a Positive Drug Test result in a Reasonable Suspicion Drug Test, the employee shall be placed on a disciplinary leave of absence pending completion of the Confirmatory Drug Test and any MRO review. The employee shall be permitted to use accrued vacation, sick and other permitted compensable leave during the disciplinary leave of absence.

b. Back-Pay, Leave and Reinstatement or Disciplinary Action

- i. If further testing and review in a Reasonable Suspicion Drug Test results in a Verified Negative Drug Test, the employee shall be entitled to full back pay for any period of the leave not covered by accrued vacation, sick or other permitted compensable leave; shall be credited any vacation, sick and other permitted compensable leave used during the period of the leave; and shall be reinstated to his or her position of employment.
- ii. If further testing and review in a Reasonable Suspicion Drug Test results in a Verified Positive Drug Test, the Employee shall not be entitled to back pay for any period of the leave not covered by accrued vacation, sick or other permitted compensable leave; shall not be credited any vacation, sick or other permitted compensable leave used during the period of the leave; and shall be subject to disciplinary action.

7. Notice of Test Results

a. Initial Drug Test: Verified Negative Drug Test

i. Employee

Within three (3) business days after receiving a written test report from the Tribal Health Center Laboratory or the Reference Laboratory in which an Initial Drug Test resulted in a Negative Drug Test, the Director of Human Resources, or designee, shall send written notice to the employee and the supervisor, which shall indicate that the Initial Drug Test resulted in a Verified Negative Drug Test.

ii. Applicant

Within three (3) business days after receiving a written test report from the Tribal Health Center Laboratory or the Reference Laboratory in which an Initial Drug Test resulted in a Negative Drug Test, the Director of Human Resources, or designee, shall send written notice to the Applicant and the supervisor, which shall include the following:

- (a) the Initial Drug Test resulted in a Verified Negative Drug Test; and
- (b) the conditional offer of employment will remain open for five (5) business days from the date of this written notice.

b. Initial Drug Test: Positive Drug Test in Reasonable Suspicion Drug Test

i. Employee

Within three (3) business days after receiving a written test report from the Reference Laboratory in which a Reasonable Suspicion Drug Test is conducted and the Initial Drug Test results in a Positive Drug Test, the Director of Human Resources, or designee, shall send written notice to the Employee and the supervisor, which shall include the following:

- a. your Initial Drug Test resulted in a Positive Drug Test;
- b. because of the Positive Drug Test it is necessary for the Reference Laboratory to conduct a Confirmatory Drug Test;
- c. if the Confirmatory Drug Test results in a Positive Drug Test, a MRO will attempt to contact you to discuss the result;

- d. you are placed on a disciplinary leave of absence pending completion of the Confirmatory Drug Test and any required MRO review, which will take a minimum of nine (9) business days;
  - e. you have the option to use any accrued vacation, sick and other permitted compensable leave during the period of the leave;
  - f. if the Confirmatory Drug Test or MRO review results in a Verified Negative Drug Test, you will be entitled to full back pay for any period of the leave not covered by accrued vacation, sick or other permitted compensable leave; you will be credited any vacation, sick and other permitted compensable leave used during the period of the leave; and you will be reinstated to your position of employment; and
  - g. if the Confirmatory Drug Test and MRO review results in a Verified Positive Drug Test, you will not be entitled to back pay for any period of the leave not covered by accrued vacation, sick or other permitted compensable leave; you will not be credited any vacation, sick or other permitted compensable leave used during the period of the leave; you will be subject to disciplinary action and if you are terminated as a result of engaging in Prohibited Conduct, you will not be eligible to apply for employment with the Tribe in any position for the period of six (6) months from the date of termination.
- c. Confirmatory Drug Test or MRO: Verified Negative Drug Test
- i. Employee

Within three (3) business days after receiving a written test report from the Reference Laboratory in which a Confirmatory Drug Test resulted in a Negative Drug Test or Invalid Drug Test or within three (3) business days after receiving a written test report from the MRO in which it was determined that a legitimate explanation existed for the Positive Drug Test, the Director of Human Resources, or designee, shall send written notice to the employee and the supervisor, which shall include the following:

- a. the Confirmatory Drug Test resulted in a Negative Drug Test or Invalid Drug Test; and therefore, the test resulted in a Verified Negative Drug Test; or
- b. the Confirmatory Drug Test resulted in a Positive Drug Test but the MRO determined that a legitimate explanation existed for the

Positive Drug Test, and therefore, the test resulted in a Verified Negative Drug Test.

ii. Applicant

Within three (3) business days after receiving a written test report from the Reference Laboratory in which a Confirmatory Drug Test resulted in a Negative Drug Test or Invalid Drug Test or within three (3) business days after receiving a written test report from the MRO in which it was determined that a legitimate explanation existed for the Positive Drug Test, the Director of Human Resources, or designee, shall send written notice to the Applicant and the supervisor, which shall include the following:

- a. the Confirmatory Drug Test resulted in a Negative Drug Test or Invalid Drug Test; and therefore, the test resulted in a Verified Negative Drug Test; or
- b. the Confirmatory Drug Test resulted in a Positive Drug Test but the MRO determined that a legitimate explanation existed for the Positive Drug Test, and therefore, the test resulted in a Verified Negative Drug Test; and
- c. the conditional offer of employment shall remain open for five (5) business days from the date of this written notice.

d. Confirmatory Drug Test or MRO: Verified Negative Drug Test in Reasonable Suspicion Drug Test

i. Employee

Within three (3) business days after receiving a written test report from the Reference Laboratory in which a Reasonable Suspicion Drug Test is conducted and the Confirmatory Drug Test resulted in a Negative Drug Test or Invalid Drug Test or within three (3) business days after receiving a written test report from the MRO in which it was determined that a legitimate explanation existed for the Positive Drug Test, the Director of Human Resources, or designee, shall send written notice to the employee and the supervisor, which shall include the following:

- a. the Confirmatory Drug Test resulted in a Negative Drug Test or Invalid Drug Test; and therefore, the test resulted in a Verified Negative Drug Test; or

- b. the Confirmatory Drug Test resulted in a Positive Drug Test but the MRO determined that a legitimate explanation existed for the Positive Drug Test, and therefore, the test resulted in a Verified Negative Drug Test; and
  - c. you are entitled to back pay for any period of the leave not covered by accrued vacation, sick or other permitted compensable leave;
  - d. you will be credited any vacation, sick or permitted compensable leave used during the period of the suspension; and
  - e. you are reinstated to your position of employment.
- e. Confirmatory Drug Test and MRO: Verified Positive Drug Test

i. Employee

Within three (3) business days after receiving a written test report from the MRO in which it is determined that a legitimate explanation does not exist for the Positive Drug Test, and therefore, the Confirmatory Drug Test resulted in a Verified Positive Drug Test, the Director of Human Resources, or designee, shall send written notice to the employee and the supervisor, which shall include the following:

- a. the Confirmatory Drug Test resulted in a Positive Drug Test;
- b. the MRO determined that a legitimate explanation does not exist for the Positive Drug Test, and therefore, the test resulted in a Verified Positive Drug Test;
- c. you will be subject to disciplinary action; and
- d. if you are terminated as a result of engaging in Prohibited Conduct, you will not be eligible to apply for employment with the Tribe in any position for the period of six (6) months from the date of termination.

ii. Applicant

Within three (3) business days after receiving a written test report from the MRO in which it is determined that a legitimate explanation does not exist for the Positive Drug Test, and therefore, the Confirmatory Drug Test resulted in a Verified Positive Drug Test, the Director of Human Resources,

or designee, shall send written notice to the Applicant, which shall include the following:

- a. the Confirmatory Drug Test resulted in a Positive Drug Test;
- b. the MRO determined that a legitimate explanation does not exist for the Positive Drug Test, and therefore, the test resulted in a Verified Positive Drug Test; and
- c. the Tribe has revoked the conditional offer of employment, and you are not eligible to apply for employment with the Tribe in any position for the period of six (6) months.

f. Confirmatory Drug Test and MRO: Verified Positive Drug Test in Reasonable Suspicion Drug Test

i. Employee

Within three (3) business days after receiving a written test report from the MRO in which a Reasonable Suspicion Drug Test is conducted and it is determined that a legitimate explanation does not exist for the Positive Drug Test, and therefore, the test results in a Verified Positive Drug Test, the Director of Human Resources, or designee, shall send written notice to the employee and the supervisor, which shall include the following:

- a. the Confirmatory Drug Test resulted in a Positive Drug Test;
- b. the MRO determined that a legitimate explanation does not exist for the Positive Drug Test, and therefore, the test resulted in a Verified Positive Drug Test;
- c. you are not entitled to back pay for any period of the leave not covered by accrued vacation, sick or other permitted compensable leave;
- d. you will not be credited any vacation, sick or permitted compensable leave used during the period of the suspension;
- e. you will be subject to disciplinary action; and
- f. if you are terminated as a result of engaging in Prohibited Conduct, you will not be eligible to apply for employment with the Tribe in

any position for the period of six (6) months from the date of termination.

## **Disciplinary Action**

### 1. Employee

An employee who engages in Prohibited Conduct shall be subject to disciplinary action as follows:

- a. 1<sup>st</sup> Offense 1 week disciplinary leave of absence without pay
- b. 2<sup>nd</sup> Offense Voluntary termination due to non-compliance with Sault Tribe Drug-Free Workplace policy

Note: The 12 month provision in the discipline policy does not apply to prohibited conduct under the drug test policy. The time limit in between failures is three (3) years from the first offense.

An employee who is terminated as a result of engaging in Prohibited Conduct shall not be eligible to apply for employment with the Tribe in any position for the period of six (6) months from the date of termination.

### 2. Applicant

The Tribe shall revoke the conditional offer of employment and shall not hire an Applicant who engages in Prohibited Conduct. An Applicant who has engaged in Prohibited Conduct shall not be eligible to apply for employment with the Tribe in any position for the period of six (6) months from the date the written notice is sent to the Applicant.

## **Confidentiality**

1. The Tribal Health Center Laboratory, the Reference Laboratory, the Human Resources Department, the MRO, all supervisors and all other Tribal employees shall treat all Applicant and employee information relating to alcohol and drug testing as confidential. All Applicant and employee information relating to alcohol and drug testing constitutes private data which may only be disclosed to the Reference Laboratory and the MRO in accordance with this Policy and Procedures and to those Tribal employees who have a need to know such information in the course of their employment.

2. Notwithstanding the above, alcohol and drug test result information may be disclosed by the Tribe in any action arising out of the alcohol or drug testing or an employment decision based on such alcohol or drug testing results or as permitted by law.
3. The results of any Initial Alcohol Test, Confirmatory Alcohol Test, Initial Drug Test or Confirmatory Drug Test conducted under this Policy and Procedures shall be used solely for employment purposes.

**RESOLUTION NO: \_\_\_\_\_**

**SUBMISSION TO SECRETARIAL ELECTION  
A CONSTITUTIONAL AMENDMENT  
ESTABLISHING THE RIGHT OF INITIATIVE**

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians is a federally recognized Indian Tribe organized under the Indian Reorganization Act of 1934, 25 USC 461 et seq.; and

WHEREAS, the Constitution of the Sault Ste. Marie Tribe of Chippewa Indians, Article X, states: “This constitution and bylaws may be amended by a majority vote of the eligible voters of the Tribe voting at an election called for that purpose by the Secretary of the Interior, provided that at least thirty (30) percent of those entitled to vote shall vote in such election, but no amendment shall become effective until it shall have been approved by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment upon the receipt of a resolution passed by a majority of the board of directors, the chairperson having the right to vote thereon;” and

WHEREAS, it is the desire and intent of the Board of Directors that a Secretarial Election be held for the purpose of amending the Constitution of the Tribe, to add a new Article, Article IX.A to provide tribal members with the right to of initiative.

**NOW THEREFORE BE IT RESOLVED** that Pursuant to Article X of the Tribe’s Constitution, the Board of Directors hereby submits the following proposed Constitutional Amendment to the Secretary of Interior for purposes of holding a Secretarial Election with all due haste:

Shall the Constitution of the Sault Ste. Marie Tribe of Chippewa Indians be amended to add a new Article IX.A to read as follows:

**ARTICLE IX.A – INITIATIVE**

Section 1. Right of Initiative. Voters of the Tribe shall have the right to enact a law by Initiative. An Initiative shall not be permitted to enact a budget or budget modification. Eligible voters of the Tribe, regardless of their residence, shall have the right to demand an Initiative election to enact a law by submitting a petition signed by at least ten percent of the number of eligible voters of the Tribe to the Election Commission. A petition for an Initiative election shall include the full text of the proposed law. Once a petition is submitted, the Election Commission shall make a determination within fifteen days whether all petitioning requirements have been met. Upon making a finding of a valid petition, the Election Commission shall conduct a Special Election on the Initiative within sixty days.

Res. No: \_\_\_\_\_

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Section 2. Results of a Special Election for an Initiative. The results of a Special Election for an Initiative shall become law immediately unless otherwise specified in the law. Once passed, the results of the Initiative shall be binding and shall not be subject to repeal or modification except by a subsequent Special Election or by a three-fourths majority vote of the Board of Directors.

\_\_\_\_\_ Approve                      \_\_\_\_\_ Disapprove

BE IT FURTHER RESOLVED, that the results of such Secretarial Election shall be conclusive and binding upon the Tribe.

### C E R T I F I C A T I O N

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**BIG BEAR – YOUTH PROGRAMS  
FY 2013 BUDGET MODIFICATION**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians here by approves the FY 2013 budget modification to Youth Programs to decrease Other Revenue \$22,200.00. This budget modification will reflect a more accurate budget and change the personnel sheet. There is no effect on tribal support.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**COMMUNITY CARE CLINIC AND HEALTH CENTER MEDICAL  
NURSING - MAY  
FY 2013 BUDGET MODIFICATIONS**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians here by approves the FY 2013 budget modifications to Community Care Clinic and to Health Center Medical/Nursing, to change the personnel sheet, reallocate expenses, and increase Other Revenue \$3,541.25. No effect on Tribal Support.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**CULTURAL – POW WOWS AND POW WOW GENERAL  
FY 2013 BUDGET MODIFICATIONS**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians here by approves the FY 2013 budget modifications to Pow Wows and Pow Wow General. This budget modification is to establish a Mackinaw Island Pow Wow and will move \$5,000.00 in Tribal Support from Pow Wow General CC#1073 to Pow Wows CC#1070.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**EDUCATION – STAY PROJECT EVALUATION – SCIENCE TO  
SERVICE INITIATIVE  
ESTABLISHMENT OF A FY 2013 BUDGET**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians here by approves the establishment of a FY 2013 budget for the STAY Project Evaluation Science to Service Initiative with Other Revenue from the Education Development Center, Inc. of \$33,000.00. There is no effect on tribal support.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**EDUCATION – STAY PROJECT  
ESTABLISHMENT OF A FY 2013 BUDGET**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians here by approves the establishment of a FY 2013 budget for the STAY Project with \$4,624.39 in Tribal Support.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**INTER – TRIBAL FISHERIES  
FY 2013 BUDGET MODIFICATION**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians here by approves the budget modification to the FY 2013 budget for Inter-Tribal Fisheries to increase Federal BIA monies \$1,500.00. No effect on Tribal Support.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**LAW ENFORCEMENT – ADAM WALSH (SORNA) GRANT  
FY 2013 BUDGET MODIFICATION**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians here by approves the FY 2013 budget modification to Adam Walsh (SORNA) Grant to increase Federal Revenue \$89,717.37. These funds are carry over and we received a four month extension. There is no effect on tribal support.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**LAW ENFORCEMENT – COMMUNITY ALERT SYSTEMS  
ESTABLISHMENT OF A FY 2013 BUDGET**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians here by approves the establishment of a FY 2013 budget for the Community Alert Systems with \$48,357.55 in carry over Federal Revenue. There is no effect on tribal support.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**LEGAL SPECIAL PROJECTS  
FY 2013 BUDGET MODIFICATION**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians here by approves the FY 2013 budget modification to Legal Special Projects to increase Tribal Support \$141,250.00. This budget modification is to increase consulting.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**USDA-NRCS NUNN’S CREEK AND NUNN’S CREEK FISHERIES  
FY 2014 BUDGET AND FY 2013 BUDGET MODIFICATION**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians here by approves the request to establish a FY 2014 budget for USDA-NRCS Nunn’s Creek with Federal - USDA monies of \$3,170 and the transfer of \$5,380 from Nunn’s Creek Fisheries. No effect on Tribal Support.

BE IT FURTHER RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians here by approves the FY 2013 budget modification to Nunn’s Creek Fisheries to increase Other Revenue – Walleye Sales \$5,380, to allow for the transfer of \$5,380 to USDA – NRCS Nunn’s Creek. No effect on Tribal Support.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**St. Ignace Clinic - May  
FY 2013 Budget Modification**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians here by approves the FY 2013 budget modification to St. Ignace Clinic, to change the personnel sheet and reallocate expenses. No effect on Tribal Support.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**TRAP NET CONSENT  
FY 2013 BUDGET MODIFICATION**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians here by approves the budget modification to the FY 2013 budget for Trap Net Consent to cover the cost of additional Survival Suits and improvements at the Epoufette Dock. The increase of \$14,000 will come from the Fisherman's Trust Fund. No effect on Tribal Support.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**TRIBAL TAX AGREEMENT  
FY 2013 BUDGET MODIFICATION**

BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians here by approves the FY 2013 budget modification to Tribal Tax Agreement for an increase in Tribal Support of \$2,361.00.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO: \_\_\_\_\_**

**AMENDING DRUG-FREE WORKPLACE POLICY**

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians is a federally recognized Indian Tribe organized under the Indian Reorganization Act of 1934, 25 U.S.C. 467 et seq (“Tribe”); and

WHEREAS, an elected Board of Directors (“BOD”) makes up the governing body of the Tribe; and

WHEREAS, the BOD approved and enacted the current Drug-Free Workplace Policy (“DFWP”) and also approved a pared down version of the DFWP to be included in the Tribe’s Human Resource Policy Manuals for the Tribe’s government, casinos, and enterprises (DFWP for Manuals”); and

WHEREAS, both the DFWP and the DFWP for Manuals, apply to all employees; and

WHEREAS, the BOD desires to amend both the DFWP and the DFWP for Manuals, in the following manner (the specific modifications to both the DFWP and the DFWP for Manuals are shown in the documents attached hereto):

Both the DFWP and the DFWP for Manuals shall now more clearly designate what constitutes a prohibited drug by adding the language “Under U.S. Federal Laws and Regulations” to several paragraphs in the documents to ensure that all personnel understand that drugs authorized under some state laws or other foreign countries, shall not be allowed under Tribal Policy.

Additionally, the DFWP is being updated and modified to reflect the Tribe’s current required practices. A summary of the updates and modifications are as follows: the way prescription medication information is collected; the manner in which random samples and follow-up samples are collected; and removal of the term “covered” as previously approved by the BOD in a prior, separate resolution.

NOW, THEREFORE, BE IT RESOLVED, that the BOD hereby approves and enacts the proposed revisions to both the Drug-Free Workplace Policy and the pared down version of the Drug Free Workplace Policy included in the Tribe’s Human Resource Policy Manuals, as set forth above and as attached, beginning on April 16, 2013.

**CERTIFICATION**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO: \_\_\_\_\_**

**AMENDING VACATION POLICIES**

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians is a federally recognized Indian Tribe organized under the Indian Reorganization Act of 1934, 25 U.S.C. 467 et seq; and

WHEREAS, the Board of Directors has previously approved employment policies for governmental, enterprise and casino team members regarding vacation; and

WHEREAS, the Board of Directors desires to change the vacation policies so that all vacation policies (including governmental, enterprise, and casino) are consistent with one another in that all team members (both exempt and non-exempt alike) working for any Sault Tribe entity (government, enterprise, and casino – collectively referred to herein as “Company”): 1) shall be required to meet 90 days of continuous employment in order to be eligible to take vacation time; 2) shall have completed at least one year of continuous service to the Company prior to being entitled to have unused vacation time paid out to him/her upon separation from the Company; and 3) can request to convert excess vacation time to sick time in order to donate to the sick leave bank as identified in the sick leave policy; and

WHEREAS, the specific modifications to the respective sections of the governmental, enterprise, and casino vacation policies are as follows (words struck through shall be deleted and words shown in bold and italics shall be added):

**GOVERNMENTAL:**

You must be classified as a regular full-time or part-time team member and completed ~~the required introductory period~~ **90 days of continuous employment** to be eligible to take vacation time. A part-time team member is eligible to accrue a portion of vacation time based on the number of hours the part-time team member works.

You will be allowed to carry forward a maximum of 30 days (240 Hours) of accrued vacation hours into the next calendar year. Any hours remaining over the 30-day maximum allowed to be carried over into the next calendar year will be forfeited at the end of the calendar year. ***Please note that a team member can request to convert excess vacation time to sick time in order to donate to the sick leave bank as identified in the sick leave policy.***

Up to 20 days of unused vacation entitlement will be paid to team members upon separation provided they have completed at least ~~six months~~ **one year** of continuous service. The vacation pay out will be computed based on the pay rate earned at the time of separation.

If a tribal holiday falls during your vacation ***and you are entitled to holiday pay***, the holiday will not be counted as vacation taken.

**ENTERPRISE:**

You must be classified as a regular full-time or part time team member and completed ~~one year~~ **90 days** of continuous employment to be eligible to take vacation time. Vacation accrual rates are based on a team member working a 2080 hour work year. A regular part time team member is eligible to accrue a portion of vacation time based on the number of hours the part time team member works.

If a company holiday falls during your vacation ***and you are entitled to holiday pay***, the holiday will not be counted as vacation taken.

**CASINO:**

You must be classified as a regular full-time or part time team member and completed ~~one-year~~ **90 days** of continuous employment to be eligible to take vacation time. A regular part time team member is eligible to accrue a portion of vacation time based on the number of hours the part time team member works.

If a Casino holiday falls during your vacation **and you are entitled to holiday pay**, the holiday will not be counted as vacation taken.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors enacts the proposed revisions to the governmental vacation policy as set forth above and as attached beginning on April 16, 2013.

BE IT FURTHER RESOLVED, that the Board of Directors enacts the proposed revisions to the casino vacation policy as set forth above and as attached beginning on April 16, 2013.

BE IT FURTHER RESOLVED, that the Board of Directors enacts the proposed revisions to the enterprise vacation policy as set forth above and as attached beginning on April 16, 2013.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO: \_\_\_\_\_**

**SUBMITTING TO SECRETARIAL ELECTION  
A CONSTITUTIONAL AMENDMENT ESTABLISHING  
SIGNATURE REQUIREMENTS FOR REMOVAL FROM OFFICE**

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians ("Tribe") is a federally recognized Indian Tribe organized under the Indian Reorganization Act of 1934, 25 USC 461 et seq.; and

WHEREAS, an election on a constitution supervised by the Secretary of the Interior pursuant to the Indian Reorganization Act of 1934, 25 USC 476 was ordered on May 30, 1975; and

WHEREAS, the Tribe submitted its present constitution and bylaws for approval by Secretarial election by Resolution No.6-27-75A on June 18, 1975; and

WHEREAS, the Constitution and Bylaws of the Sault Ste. Marie Tribe of Chippewa Indians was adopted by the membership at an election conducted on October 9, 1975; and

WHEREAS, the Constitution of the Sault Ste. Marie Tribe of Chippewa Indians, Article X-Amendments states, "This constitution and bylaws may be amended by a majority vote of the eligible voters of the Tribe voting at an election called for that purpose by the Secretary of the Interior, provided that at least thirty (30) percent of those entitled to vote shall vote in such election, but no amendment shall become effective until it shall have been approved by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment upon the receipt of a resolution passed by a majority of the board of directors, the chairperson having the right to vote thereon;" and

WHEREAS, the Constitution of the Sault Ste. Marie Tribe of Chippewa Indians, Article VI-Vacancies and Removal from Office requires "at least one hundred (100) eligible voters" sign a petition for removal; and

WHEREAS, the Board desires to increase the number of signatures required for a removal petition to better reflect the increase in the number of Tribal members since October 9, 1975; and

WHEREAS, it is the desire and intent of the Board of Directors that a Secretarial election be held for the purpose of amending the Constitution of the Sault Ste Marie Tribe of Chippewa Indians, Article VI-Vacancies and Removal from Office to increase the number of signatures required for a removal petition.

Res. No: \_\_\_\_\_

Page 2

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the Constitution of the Sault Ste. Marie Tribe of Chippewa Indians, Article X-Amendments, the Board of Directors hereby submits the following constitutional amendment to the Secretary of the Interior for purposes of holding a Secretarial election with all due haste;

"Do you approve of increasing the number of signatures required for a petition to remove an elected tribal official from office by striking the current requirement of "at least one hundred (100) eligible voters" and replacing it with "...for removal of a member of the board of directors, at least 10% of the total eligible voters who cast at least one vote in the last election in the unit from which such person was elected, and for removal of a chairperson, at least 10% of the total eligible voters in all units who cast at least one vote in the last election..."

\_\_\_\_\_ Approve                      \_\_\_\_\_ Disapprove"

BE IT FURTHER RESOLVED, that the results of such Secretarial election shall be conclusive and binding upon the Tribe, and upon certification of the results of the election by the Secretary of Interior shall be deemed served and completed.

### C E R T I F I C A T I O N

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**AUTHORIZATION TO OPEN TRUST AND INVESTMENT ACCOUNTS WITH HUNTINGTON BANK**

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians is a federally recognized Indian Tribe organized under the Indian Reorganization Act of 1934, 25 U.S.C. 467 et seq; and

WHEREAS, the main bank checking accounts are moving to Huntington Bank and it is more efficient to have the Trust and Investment Accounts there as well.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby authorizes the CFO or his designee, to establish the necessary Trust and Investment Accounts with Huntington Bank for investment banking activity to insure that tribal trust and investment operations continue in an effective manner as prescribed by both Tribal and Federal Grant Investment Policies. Signatures of the following are required to transact any activity on said accounts:

Aaron A. Payment, Chairperson	Denise Chase, Vice Chair
Cathy Abramson, Secretary	Dennis McKelvie, Treasurer
William P. Connolly, CFO	Christine McPherson, Executive Director

Said accounts will require the signatures of two of the signatories for any transactions.

BE IT FINALLY RESOLVED, that the Board of Directors grants inquiry access to these accounts for obtaining transactional information to the following Accounting Department staff:

Julie Hagan	Amy Cappelli	Rita Bricker
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**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**AUTHORIZATION TO OPEN BANK ACCOUNTS  
WITH HUNTINGTON BANK**

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians is a federally recognized Indian Tribe organized under the Indian Reorganization Act of 1934, 25 U.S.C. 467 et seq; and

WHEREAS, the main bank used by the governmental operations is PNC Bank and PNC is closing its local branches as of May 16, 2013; and

WHEREAS, it is necessary for the Sault Tribe to have a local bank to make deposits and conduct other necessary daily financial transactions; and

WHEREAS, after a comprehensive review and discussion with the remaining local banks, it is recommended that the Sault Tribe establish a banking relationship with Huntington Bank.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby authorizes the CFO or his designee, to establish the necessary accounts with Huntington Bank for day-to-day banking activity to insure that tribal financial operations continue in an effective manner. Signatures of the following are required to transact any activity on said accounts:

Aaron A. Payment	Denise Chase	Cathy Abramson
Dennis McKelvie	William P. Connolly	Christine McPherson

Said accounts will require the signatures of two of the signatories.

BE IT FINALLY RESOLVED, that the Board of Directors grants inquiry access to these accounts for obtaining transactional information to the following Accounting Department staff:

Julie Hagan    Laurie Mansfield    Amy Cappelli

It is also agreed that Julie Hagan and Laurie Mansfield be Co-Administrators of the Business On-line banking system at Huntington Bank.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO: \_\_\_\_\_**

**PARTIAL WAIVER OF CONVICTIONS FOR  
MR. ANGUS MCKERCHIE**

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians is a federally recognized Indian Tribe organized under the Indian Reorganization Act of 1934, 25 U.S.C. 467 et seq; and

WHEREAS, the Board of Directors has enacted Tribal Code Chapter 76: Partial Waiver of Conviction for Gaming License Purpose that allows for a partial waiver of conviction be issued to tribal members who have been convicted of a crime and would be denied a license for employment in a gaming operation pursuant to Chapter 42; and

WHEREAS, Mr. Angus McKerchie, a tribal member who was convicted of:

1. Misdemeanor Malicious Destruction of Property <\$200.00 – 10/2010
2. Felony Police Officer Assaulting/Resisting/Obstructing – 12/2010
3. 4 counts Felony Motor Vehicle- Unlawful Driving Away – 10/2012
4. Misdemeanor Larceny <\$200.00 – 10/2012

WHEREAS, Mr. Angus McKerchie, would be denied a license for employment as a key employee or primary management official because of the criminal conviction; and

WHEREAS, the Board of Directors has determined that Mr. Angus McKerchie is not likely to engage in any offensive or criminal course of conduct and the public good does not require that she be denied a license as a key employee or primary management official.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors, pursuant to Tribal Code Chapter 76 grants a partial waiver to Mr. Angus McKerchie for the convictions of:

1. Misdemeanor Malicious Destruction of Property <\$200.00 – 10/2010
2. Felony Police Officer Assaulting/Resisting/Obstructing – 12/2010
3. 4 counts Felony Motor Vehicle- Unlawful Driving Away – 10/2012
4. Misdemeanor Larceny <\$200.00 – 10/2012

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO: \_\_\_\_\_**

**LIMITED WAIVER OF SOVEREIGN IMMUNITY AND CONSENT TO  
WAIVER OF TRIBAL COURT JURISDICTION  
CREDIT AGREEMENT WITH NATIONAL CITY  
AUTHORIZATION TO ENTER INTO AGREEMENTS**

BE IT RESOLVED, by the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians, as follows:

Section 1. FINDINGS AND DETERMINATIONS:

The Board of Directors finds and determines that:

1.1 The Sault Ste. Marie Tribe of Chippewa Indians ("Tribe") is a federally recognized Indian Tribal Government organized under the provisions of the Indian Reorganization Act of 1934.

1.2 The Tribe currently has a "Letter of Credit" in the amount of \$2,102,049.00 with National City Bank-Midwest ("Bank") to satisfy the security requirement of the Michigan Employment Security Act for the Sault Tribe Self-funded Unemployment Program. Collateral for this Letter of Credit is currently the full faith and credit of the Tribe.

1.3 The Tribe wishes to amend this Letter of Credit:

(i) to confirm that the amount of the Letter of Credit available on the date of this Amendment, to be drawn is \$2,102,049.00 (the "Available Amount");

(ii) to provide that payment of the Liabilities (as defined in the Reimbursement Agreement) and all indebtedness and liabilities of the Tribe owed to the Bank, whether now existing or later arising and however evidenced are secured by:

(a) a first real estate mortgage, including an assignment of rents and security interest on the Tribe's real property and the fixtures and improvements located thereon, commonly known as 1131 North State Street, St. Ignace, Michigan 49781, which real estate mortgage from the Tribe to the Bank is dated September 1, 2009, and was recorded in Mackinac County, Michigan Records, on November 17, 2009, in Liber 697, Page 209 (the "1131 North State Mortgage"); and

(b) a first real estate mortgage, including assignment of rents and security Interest on the Tribe's real property and fixtures and improvements located thereon, commonly known as 531 Ashmun Avenue, Sault Ste. Marie, Michigan 49713, which real estate mortgage from the Tribe to the Bank is dated July 23, 2010, and was recorded in Chippewa County, Michigan Records, on August 19, 2010, in Liber 1093, Page 909 (the "531 Ashmun Mortgage"); and

(c) a Pledge Agreement (Bank Deposits) dated as of even date herewith from the Obligor to the Bank granting the Bank a first lien and security interest in the Tribe's Custodian Account with Bank, which account at all times shall contain the minimum amount of Five Hundred Thousand and 00/100ths Dollars (\$500,000.00) (the "Pledge Agreement"); and

(d) a Notification and Control Agreement by and among the Tribe, the Bank, and the Bank as custodian dated as of even date herewith (the "Notification and Control Agreement") with respect to an account of the Tribe (the "Investment Account").

(iii) To provide for the release of the first real estate mortgage, including assignment of rents and security interest on the Tribe's real property, fixtures, and improvements located thereon, commonly known as 523 Ashmun Street, Sault Ste. Marie, Michigan 49783, from the Tribe to the Bank dated August 31, 2012.

1.4 Bank has refused to consent to such amendment without a limited waiver of sovereign immunity or Tribal Court jurisdiction.

1.5 In order to induce Bank to enter into the amended Letter of Credit, the Tribe is required to confirm that the Tribe and all other entities claiming by, through or under the Tribe will not claim tribal immunity or exclusive Tribal Court jurisdiction with respect to any disputes or causes of action between the Tribe and Bank that might arise from, or relate to, in any respect, the Letter of Credit, the Amendment to Reimbursement and Security Agreement, the Pledge Agreement, or the Notification and Control Agreement. All of the foregoing are referred to herein as the "Waiver and Consent Obligations."

1.6 It is in the Tribe's interest to resolve as stated herein.

## Section 2. LIMITED WAIVER OF SOVEREIGN IMMUNITY; CONSENT TO JURISDICTION; GOVERNING LAW

2.1 The Tribe hereby waives its sovereign immunity from suit in favor of Bank only should an action be commenced under the Bank contract referenced above.

This waiver:

i) shall terminate upon performance by the Tribe of all of its obligations under the Letter of Credit, the Amendment to Reimbursement and Security Agreement, the Pledge Agreement, or the Notification and Control Agreement or any subsequent extensions of the Letter of Credit, the Amendment to Reimbursement and Security Agreement, the Pledge Agreement, or the Notification and Control Agreement

ii) is granted solely to Bank;

iii) shall extend to inter alia, any judicial or non judicial action, including, but not limited to, any lawsuit, arbitration, and judicial or non judicial action to resolve disputes between the Tribe and Bank and the assertion of any claim in a court of competent jurisdiction or with any arbitrator or arbitration panel to enforce the obligations under the Letter of Credit, the Amendment to Reimbursement and Security Agreement, the Pledge Agreement, or the Notification and Control Agreement.

iv) shall be enforceable only in a court of competent jurisdiction, including courts of the State of Michigan the Tribal Court and federal courts in Michigan (including the United States Bankruptcy Court) or any arbitrator or arbitration panel.

Res. No: \_\_\_\_\_

Page 3

**Section 3. WAIVER OF TRIBAL COURT JURISDICTION**

3.1 The Board of Directors waives the exclusive jurisdiction of the Tribal Court over any action arising under the Letter of Credit, the Amendment to Reimbursement and Security Agreement, the Pledge Agreement, or the Notification and Control Agreement.

**Section 4. AUTHORIZATION**

4.1 The Board of Directors of the Tribe hereby authorizes the Chairperson, the Treasurer, the Chief Financial Officer of the Tribe, and each of their designees, to each act to execute the necessary documents to effectuate this transaction, including, but not limited to the Letter of Credit, the Amendment to Reimbursement and Security Agreement, the Pledge Agreement, the Notification and Control Agreement.

**CERTIFICATION**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians



**RESOLUTION NO: \_\_\_\_\_**

**REPLACING TRIBAL CODE CHAPTER 16: REMOVAL FROM OFFICE**

WHEREAS, the Constitution at Article VI provides for the removal of an elected official from office; and

WHEREAS, Article VI is not self-enabling and therefore the Board of Directors is responsible for the promulgation of a law that implements Article VI; and

WHEREAS, the Board of Directors has adopted Tribal Code Chapter 16: Removal from Office implements Article VI which implements Article VI; and

WHEREAS, the Board of Directors finds that the people's right to seek recourse pursuant to Article VI is impinged by overly restrictive sections contained in Tribal Code Chapter 16: Removal From Office; and

WHEREAS, the Board of Directors wishes to replace the existing Tribal Code Chapter 16: Removal from Office with an earlier version of the same that does not impinge upon the people's right to recourse under that Chapter.

NOW, THEREFORE, BE IT RESOLVED, that Tribal Code Chapter 16 is rescinded in its entirety and replaced by the attached.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO: \_\_\_\_\_**

**RESCINDING RESOLUTION 2012-146  
AND ESTABLISHING THE POSITION OF  
CHIEF EXECUTIVE OFFICER OF THE TRIBE**

WHEREAS, pursuant to a Secretarial election held on March 20, 2010, the Sault Ste. Marie Tribe of Chippewa Indians amended Article II, Section 1 of its Bylaws by deleting language that had previously directed the Chairperson to “perform all duties consistent with the office as chief executive officer of the tribe;” and

WHEREAS, Article IV of the Constitution provides that “[t]he governing body of the Sault Ste. Marie Tribe of Chippewa Indians shall consist of a board of directors”; and

WHEREAS, the effect of the amendment approved by the Secretarial election was to confirm that the authority to direct the operations of the Tribe is not vested independently in the office of the Chairperson but, rather, in the Board of Directors as provided in Article VII of the Constitution; and

WHEREAS, Article VII, Section 1 of the Constitution assigns specific authority to the Board of Directors including the authority to “negotiate and consult with the Federal, State, and local governments”; “expend funds for the public purposes of the tribe”; “adopt resolutions, ordinances and a code” on various subjects within the jurisdiction of the tribe; “manage, lease, sell, acquire or otherwise deal with tribal lands ... or other tribal assets”; and to “manage any and all economic affairs and enterprises of the tribe”; and

WHEREAS, Article VII, Section 1(n) of the Constitution expressly authorizes the Board of Directors to delegate powers and authority to a subordinate tribal officer “reserving the right to review any action taken by virtue of such delegated power or to cancel any delegation;” and

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians Board of Directors has determined that it is necessary to ensure that a person within the Tribe’s organization be vested with the authority to act as the Chief Executive Officer of the Tribe with full authority to manage all governmental, enterprise and casino operations, subject to the oversight, review, and direction of the Board of Directors; and

WHEREAS the Board of Directors has determined that it is in the best interests of the Tribe to assign these executive responsibilities to an employee rather than to an elected officer of the Tribe;

NOW, THEREFORE, BE IT RESOLVED, that Resolution 2012-146, Limited Delegation of Authority to the Chairperson, is rescinded effective immediately.

BE IT FURTHER RESOLVED, that the Board of Directors hereby establishes the position of Chief Executive Officer (CEO) of the Sault Ste. Marie Tribe of Chippewa Indians which, subject to the oversight, direction, and review of the Board, shall exercise supervisory authority over the governmental, business, and gaming operations of the Tribe as follows:

1. Subject to the provisions of paragraphs 2 and 3, below, the Chief Executive Officer of the Tribe is hereby delegated such usual and customary authority as is held by a Chief Executive Officer to manage and direct the day to day operations of the Tribe's governmental, business, and gaming operations, including but not limited to:

(a) Guiding and directing tribal governmental, business and casino operations to ensure operational efficiency, quality, service, and cost-effective management of resources;

(b) Performing any and all duties delegated to, authorized to be performed, or directed to be performed by the Chairperson in any previously adopted motion, resolution, or ordinance;

(c) Performing any and all duties delegated to, authorized to be performed, or directed to be performed by the Chairperson or CEO in the various Team Member Manuals;

(d) Performing all administrative and management functions required to be performed pursuant to the current organizational chart, as it has been modified by this resolution.

2. In the exercise of the authority delegated to the Chief Executive Officer by the Board of Directors in paragraph 1, the CEO shall regularly consult with and shall be subject to the direction and review of the Board of Directors. All actions taken by the Chief Executive Officer pursuant to this delegated authority shall be subject to the authority of the Board of Directors and the Board may review, approve, modify, or rescind any such action. The CEO shall report to the Board of Directors at each regularly scheduled board workshop and shall provide an update of any activities, issues, decisions, or other matters requiring the attention of the board. In the event that the CEO is unable to attend any such workshop, the CEO shall assign an alternate executive to provide that report.

3. The authority delegated to the CEO by this resolution shall continue until modified, rescinded, or extended by a subsequent resolution of the Board of Directors.

4. All organizational charts of the Tribe's governmental operations are hereby amended to reflect the foregoing.

5. The position of Chief Executive Officer is designated as a key employee position.

BE IT FINALLY RESOLVED that Christine McPherson, currently employed as the Executive Director of the Tribe, is hereby appointed and named as Chief Executive Director of the Tribe, effective as of the date of this resolution.

### CERTIFICATION

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron Payment, Tribal Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**RESCINDING RESOLUTIONS 2004-71, 2005-199, AND 2008-225  
KEY EMPLOYEES**

WHEREAS, on December 6, 2005, the Board of Directors of the Sault Ste. Marie Tribe of Chippewa Indians adopted Resolution 2005-199, Clarifying Key Employee Resolution 2004-71 “Approval of Key Employees”; and

WHEREAS, Resolution 2005-199 (a) identified a large number of positions designated as “key team members,” (b) specified that employees holding these positions may be selected and/or terminated only by a vote of seven (7) members of the Board of Directors; and (c) reserved to the Board of Directors the sole authority to determine whether any such employee shall be given a contract that is binding upon the Tribe; and

WHEREAS, on November 4, 2008, the Board of Directors adopted Resolution 2008-225, Amending Key Employee Resolution 2005-199, identifying two additional positions to be designated as “key employees” for purposes of Resolution 2005-199; and

WHEREAS, the Board of Directors has now determined that these measures are no longer necessary and that future employment decisions regarding such employees are best handled through normal human resources policies and procedures.

NOW, THEREFORE, BE IT RESOLVED, that Resolutions 2004-71, Approval of Key Employees; 2005-199, Clarifying Key Employee Resolution 2004-71 “Approval of Key Employees”; and Resolution 2008-225, Amending Key Employee Resolution 2005-199; are each rescinded effective immediately and, further, that future employment decisions regarding such employees shall now be handled through normal human resources policies and procedures.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO: \_\_\_\_\_**

**SUBMISSION TO SECRETARIAL ELECTION  
A CONSTITUTIONAL AMENDMENT  
AMENDING THE BILL OF RIGHTS**

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians is a federally recognized Indian Tribe organized under the Indian Reorganization Act of 1934, 25 USC 461 et seq.; and

WHEREAS, the Constitution of the Sault Ste. Marie Tribe of Chippewa Indians, Article X, states: “This constitution and bylaws may be amended by a majority vote of the eligible voters of the Tribe voting at an election called for that purpose by the Secretary of the Interior, provided that at least thirty (30) percent of those entitled to vote shall vote in such election, but no amendment shall become effective until it shall have been approved by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment upon the receipt of a resolution passed by a majority of the board of directors, the chairperson having the right to vote thereon;” and

WHEREAS, it is the desire and intent of the Board of Directors that a Secretarial Election be held for the purpose of amending Article VIII of the Constitution to expand the Bill of Rights.

NOW THEREFORE BE IT RESOLVED, that Pursuant to Article X of the Tribe’s Constitution, the Board of Directors hereby submits the following proposed Constitutional Amendment to the Secretary of Interior for purposes of holding a Secretarial Election with all due haste:

Shall Article VII of the Constitution of the Sault Ste. Marie Tribe of Chippewa Indians be amended to read as follows:

**ARTICLE VIII – BILL OF RIGHTS**

The government of the Tribe shall not make or enforce any law which:

- (a) infringes upon religious or cultural beliefs or prohibits the free exercise thereof nor any law which establishes religion;
- (b) prohibits the freedom of speech, expression, or of the press, or the right of the People peaceably to associate or assemble, and to petition the government for redress of grievances;
- (c) infringes upon the right of any person otherwise eligible at any time to seek and hold elective public office;

(d) violates the right of the People to be secure in the privacy of their persons, houses, papers, electronic and telecommunications information, vehicles, and effects against unreasonable searches and seizures, nor issue warrants but upon probable cause, supported by oath or affirmation signed by a Judge and particularly describing the place, person, house, or things to be searched, the object and scope of such search, and the person or thing to be seized, nor execute an arrest without probable cause, nor exercise a detainment without reasonable suspicion;

(e) subjects any person to search without probable cause or to interrogation while in custody without informing the person of their right to remain silent, to have access to an attorney, and to be advised that anything they say can be held against them in a court of law;

(f) subjects any person to criminal prosecution or punishment more than once for the same offense arising out of the same incident, nor compels any person in any criminal case to be a witness against himself or herself;

(g) discharges any person from employment without due process, or takes any private property or possessory interest in private property for public use, without due process and just compensation;

(h) discharges any person from employment or takes any other retaliation against an employee who makes public any information of misconduct by officials or employees of the Tribe;

(i) denies to any person in a criminal or civil proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him or her, to have compulsory process for obtaining witnesses in his or her favor, and in a criminal proceeding to have the assistance of counsel for his or her defense subject to income guidelines;

(j) requires excessive bail, imposes excessive fines, or inflicts cruel and unusual methods of interrogation or punishment;

(k) denies to any person within its jurisdiction the equal protection, application, or opportunity under the law or deprive any person of liberty or property without due process of law, provided, that the government shall have the power to enact and implement laws that provide employment preferences;

(l) directs a criminal proceeding against a specific individual or group, or punishes conduct after the fact through the enactment of laws or resolutions which criminalize such conduct;

(m) denies to any person accused of an offense punishable by imprisonment the right upon request, to a trial by an impartial jury of not less than

six persons, and all persons shall be presumed innocent until proven guilty in a court of law;

(n) denies to any person the access to his or her own personal information maintained by the Tribe;

(o) denies to any Person the right to own, bear, and use arms subject to regulation by the Tribe by law.

\_\_\_\_\_ Approve                      \_\_\_\_\_ Disapprove

BE IT FURTHER RESOLVED, that the results of such Secretarial Election shall be conclusive and binding upon the Tribe.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, with the Chairperson having the opportunity to vote thereon, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron Payment, Tribal Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**SUBMISSION TO SECRETARIAL ELECTION  
A CONSTITUTIONAL AMENDMENT  
TO ESTABLISH THE RIGHTS OF RECALL AND REMOVAL**

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians is a federally recognized Indian Tribe organized under the Indian Reorganization Act of 1934, 25 USC 461 et seq.; and

WHEREAS, the Constitution of the Sault Ste. Marie Tribe of Chippewa Indians, Article X, states: “This constitution and bylaws may be amended by a majority vote of the eligible voters of the Tribe voting at an election called for that purpose by the Secretary of the Interior, provided that at least thirty (30) percent of those entitled to vote shall vote in such election, but no amendment shall become effective until it shall have been approved by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment upon the receipt of a resolution passed by a majority of the board of directors, the chairperson having the right to vote thereon;” and

WHEREAS, it is the desire and intent of the Board of Directors that a Secretarial Election be held for the purpose of amending and revising Article VI of the Constitution, governing vacancies and removal from office, in order to expand the right of removal, to establish a right of recall, and to make additional provisions for the filling of vacancies.

NOW THEREFORE BE IT RESOLVED, that Pursuant to Article X of the Tribe’s Constitution, the Board of Directors hereby submits the following proposed Constitutional Amendment to the Secretary of Interior for purposes of holding a Secretarial Election with all due haste:

Shall Article VI of the Constitution of the Sault Ste. Marie Tribe of Chippewa Indians be amended to read as follows:

**ARTICLE VI - RECALL, REMOVAL, AND VACANCIES**

Section 1. Recall of a Director or Chairperson.

(a) A member of the Board of Directors or a Chairperson shall be subject to recall.

(i) A recall election shall be initiated by petition signed by at least ten percent of the total number of eligible voters at the time of submission in the election unit or units from which the Officer was elected.

(ii) A separate recall petition shall be required for each Officer subject to recall.

(iii) A recall petition shall be submitted only to the Election Committee. The Election Committee shall determine within fifteen days whether all requirements for the petition are met. If all requirements are met, the Election Committee shall hold a Recall Election after thirty days but no more than sixty days.

(iv) All eligible voters in the affected election unit or units shall be entitled to vote in the recall election. An officer shall be recalled and removed from office if at least a majority of the votes cast in the Recall Election vote in favor of recall.

(v) A recall petition shall not be initiated or submitted to the Election Committee until at least six months have passed since the start of the Officer's current term of office. A recall petition shall not be initiated or submitted to the Election Committee if six months or less remain in the term of the Officer. Once a petition is initiated, the petitioners shall have no more than sixty days to collect the requisite number of signatures. An Officer who is the subject of an unsuccessful recall vote shall not be subject to another recall election during that same term of office unless the basis for the recall is a conviction of a felony in any jurisdiction as defined by law.

(vi) An Officer who is successfully recalled from office shall not be eligible to run for any elected office until the original term from which that Officer was recalled would otherwise have expired.

Section 2. Removal of a Director or Chairperson. A Director or Chairperson shall be subject to removal for good cause as established by law.

(a) A removal petition may be filed against a Director if signed by at least one hundred eligible voters the election unit from which the Director was elected. A removal petition may be filed against the Chairperson by at least one hundred eligible voters of the Tribe. Any such petition shall state good cause and shall request a removal hearing against the accused Officer. The Tribal Court shall decide within fifteen days upon receipt of a petition whether the petition states good cause to conduct a removal hearing.

(b) If the Tribal Court finds good cause, the Tribal Court shall, within sixty days of receipt of a valid petition, conduct a public removal hearing providing due process and make a final determination whether the accused shall be removed from office, and upon a decision of removal, the seat shall be deemed vacant.

(c) The conviction of an Officer in any court for the commission of a felony may constitute good cause for purposes of removal. Upon commencement of removal proceedings for a felony conviction, a convicted Officer shall be suspended until a final determination is made regarding removal.

(d) An Officer who is successfully removed from office shall not be eligible to run for any elected office until the original term of the Officer would have expired

Section 3. Vacancy in the Office of the Chairperson. A vacancy in the office of Chairperson shall be filled by the Vice Chairperson until the Tribal Board of

Directors acts by majority vote to select a person who shall assume the Office of Chairperson until a successor shall be seated in a Special Election which shall be held within sixty days of vacancy. If six months or less remain in the Chairperson's term, then the vacancy shall be filled by the Vice Chairperson or by the person designated by majority vote of the Board of Directors.

Section 4. Vacancy on the Board of Directors. If a member of the Board of Directors, other than the Chairperson, shall die, resign, or be recalled or removed from office, the Board of Directors shall declare that Director's office to be vacant. The Board shall, by majority vote, fill vacancies by appointment of a voting member of the tribe to fill the unexpired term of the departed Director. Persons so appointed shall reside within the election unit from which the departed Director was elected.

\_\_\_\_\_ Approve                      \_\_\_\_\_ Disapprove

BE IT FURTHER RESOLVED, that the results of such Secretarial Election shall be conclusive and binding upon the Tribe.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, with the Chairperson having the opportunity to vote thereon, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron Payment, Tribal Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**SUBMISSION TO SECRETARIAL ELECTION  
A CONSTITUTIONAL AMENDMENT  
ESTABLISHING SEPARATION OF POWERS**

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians is a federally recognized Indian Tribe organized under the Indian Reorganization Act of 1934, 25 USC 461 et seq.; and

WHEREAS, the Constitution of the Sault Ste. Marie Tribe of Chippewa Indians, Article X, states: “This constitution and bylaws may be amended by a majority vote of the eligible voters of the Tribe voting at an election called for that purpose by the Secretary of the Interior, provided that at least thirty (30) percent of those entitled to vote shall vote in such election, but no amendment shall become effective until it shall have been approved by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment upon the receipt of a resolution passed by a majority of the board of directors, the chairperson having the right to vote thereon;” and

WHEREAS, it is the desire and intent of the Board of Directors that a Secretarial Election be held for the purpose of amending the Constitution of the Tribe, to add a new Article, Article II.A to mandate a separation of powers within the government of the Tribe.

NOW, THEREFORE, BE IT RESOLVED, that Pursuant to Article X of the Tribe’s Constitution, the Board of Directors hereby submits the following proposed Constitutional Amendment to the Secretary of Interior for purposes of holding a Secretarial Election with all due haste:

Shall the Constitution of the Sault Ste. Marie Tribe of Chippewa Indians be amended to add the following Article II.A:

**ARTICLE II.A - SEPARATION OF POWERS**

Branches of Government. There shall be one Legislative branch, one Executive branch, and one Judicial branch. There shall be a system of separation of powers and checks and balances between the branches of government. No branch of government or official of any branch of government shall exercise any power granted in this Constitution or properly delegated by law to any other branch of government except as expressly directed or permitted by this Constitution and each branch shall act as a check and balance upon the actions of the other branches as permitted by this Constitution.

\_\_\_\_\_ Approve

\_\_\_\_\_ Disapprove

Res. No: \_\_\_\_\_  
Page 2

BE IT FURTHER RESOLVED, that the results of such Secretarial Election shall be conclusive and binding upon the Tribe.

**CERTIFICATION**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, with the Chairperson having the opportunity to vote thereon, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron Payment, Tribal Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

**RESOLUTION NO:** \_\_\_\_\_

**USDA-NRCS COST SHARE CONTRACT APPROVAL FOR STREAM  
BANK STABILIZATION AT THE NUNNS CREEK FISHERY  
ENHANCEMENT FACILITY**

WHEREAS, the Sault Ste. Marie Tribe of Chippewa Indians (Tribe) is a federally recognized Indian Tribe, organized under the Indian Reorganization Act of 1934, as amended; and

WHEREAS, the Tribe operates a fishery hatchery and salmon weir facility at the mouth of Nunns Creek, Lake Huron, near Hessel, Michigan; and

WHEREAS, Nunns Creek is eroding its bank in the front of the hatchery office building, and has exposed the well-head, which requires that the stream bank be filled and stabilized against further erosion; and

WHEREAS, USDA-NRCS engineers have designed a repair and stabilization project, and estimate the costs at \$8,500, of which USDA-NRCS would provide \$3,170, and the remainder (match) would be provided from revenues generated from fall fingerling walleyes sales (cc:2870 deferred revenue); USDA-NRCS has prepared a contract requiring the signature of the Tribal Chairperson.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of the Sault Ste. Marie Tribe of Chippewa hereby authorizes the Tribal Chairperson, to sign a cost share agreement with USDA-NRCS for stream bank repair and stabilization at the Nunns Creek Fishery Enhancement Facility.

**C E R T I F I C A T I O N**

We, the undersigned, as Chairperson and Secretary of the Sault Ste. Marie Tribe of Chippewa Indians, hereby certify that the Board of Directors is composed of 13 members, of whom \_\_\_\_\_ members constituting a quorum were present at a meeting thereof duly called, noticed, convened, and held on the \_\_\_\_\_ day of \_\_\_\_\_ 2013; that the foregoing resolution was duly adopted at said meeting by an affirmative vote of \_\_\_\_\_ members for, \_\_\_\_\_ members against, \_\_\_\_\_ members abstaining, and that said resolution has not been rescinded or amended in any way.

\_\_\_\_\_  
Aaron A. Payment, Chairperson  
Sault Ste. Marie Tribe of  
Chippewa Indians

\_\_\_\_\_  
Cathy Abramson, Secretary  
Sault Ste. Marie Tribe of  
Chippewa Indians

# BOARD OF DIRECTORS REGULAR MEETING

MAY 7, 2013

## Sponsor's List

**PRESENTATION:** Award Robert Wood Johnson Foundation - Kerry Ott

### RESOLUTIONS:

Partial Waiver (1) – Justin Derhammer  
Auth to Open Acct/Huntington Bank – Bill Connolly  
Auth to Open Trust/Investment Huntington Bank – Bill Connolly  
Limited Waiver – National City – Bill Connolly  
USDA-NRCS Cost Share Nunns Creek – Tom Gorenflo  
Budget Modifications:  
USDA-Nunns Creek 2014/2013 – Tom Gorenflo  
Trap Net Consent – Tom Gorenflo  
Inter-Tribal Fisheries – Tom Gorenflo  
Legal Special Projects – John Wernet  
Tax Agreement – Candace Blocher  
Community Alert System – Bob Marchand  
Adam Walsh – SORNA – Bob Marchand  
Ed – Science to Service – STAY – Angeline Bouley  
Ed – STAY Project – Angeline Bouley  
Big Bear – Youth Programs – Jessica Dumback  
Cultural – Pow Wow – Jackie Minton  
Community Care Clinic/Health Center – Tony Abramson  
St. Ignace Clinic – Cheryl LaPlaunt/Tony Abramson  
Amending Vacation Policy – Christine McPherson/HR  
Amending Drug –Free Workplace Policy – Christine McPherson/HR  
Replacing Tribal Code Ch. 16, Removal of Office – Director Pine  
Sub. to Sec. Election – Signature Requirements for  
Removal from Office – Director Pine  
Rescinding Key Employee Resolutions – Director Morrow  
Sub. to Sec. Election –Separation of Powers – Chairperson Payment  
Sub. to Sec. Election – Right of Recall/Removal – Chairperson Payment  
Sub. to Sec. Election – Right of Initiative – Chairperson Payment  
Sub. to Sec. Election – Am. Bill of Rights – Chairperson Payment  
Rescinding Res. 2012-146 & Est. Position of CEO – Chairperson Payment

### NEW BUSINESS:

Committee Appt./Resignations  
Over the Max Positions - -Chairperson Payment

## **VACATION POLICY**

Vacation benefits are provided so that you may enjoy rest and relaxation away from work. The company strongly encourages you to use all time to which you are entitled to for each benefit year. The following is a list of vacation accrual rates (based on a 2080 hour work year):

### **ADMINISTRATIVE**

After (1) year of service 15 vacation days (3 weeks)  
After (5) years of service 20 vacation days (4 weeks)  
After (10) years of service 25 vacation days (5 weeks)  
After (15) years of service 30 vacation days (6 weeks)

### **NON-ADMINISTRATIVE**

After (1) year of service 10 vacation days (2 weeks)  
After (5) years of service 15 vacation days (3 weeks)  
After (10) years of service 20 vacation days (4 weeks)  
After (15) years of service 25 vacation days (5 weeks)

You must be classified as a regular full-time or part time team member and completed ~~one~~ **year 90 days** of continuous employment to be eligible to take vacation time. A regular part time team member is eligible to accrue a portion of vacation time based on the number of hours the part time team member works.

Your supervisor has the authority to approve or deny your vacation time based on your job performance and anticipated work loads, etc. The fact that you have accumulated vacation time does not mean that the vacation time is to be taken at your discretion.

Non-exempt team member's vacation time must be requested and approved in advance by your immediate supervisor. Any vacation days taken without approval will result in loss of pay and disciplinary action.

Non-exempt team member's requests for vacation must be in writing and must be put on a vacation request form. Non-exempt team members must submit the request form to their supervisor for approval. Non-exempt team members may keep a copy of the form for their own records. Failure to put the request in writing will result in time off without pay for the hours missed.

One vacation day requires that you give your supervisor at least 24 hours notice of your intent to take vacation time; two days require a weeks notice; longer requires a minimum of a two-week notice. This notice requirement is up to the discretion of the department manager.

CJ1

Casino Vacation Policy Effective March 1, 2013

You may request time off without pay at the time that you are requesting vacation days if you do not have enough vacation time to cover your absence. Check with your immediate supervisor for consideration and approval.

If a Casino holiday falls during your vacation **and you are entitled to holiday pay**, the holiday will not be counted as vacation taken.

Up to 20 days of unused vacation entitlement will be paid to team members upon separation provided they have completed at least 1 year of continuous service. The vacation pay out will be computed based on the pay rate earned at the time of separation.

You will be allowed to carry forward a maximum of 30 days (240 hours) of accrued vacation hours into the next calendar year. Any hours remaining over the 30-day maximum allowed to be carried over into the next calendar year will be forfeited at the end of the calendar year. Please note that a team member can request to convert excess vacation time to sick time in order to donate to the sick leave bank as identified in the sick leave policy.

For non-exempt team members, vacation time must be used when serving on a board or committee where an honorarium or stipend is paid and you are attending during working hours. If you do not receive any payment for service, then you can attend at your supervisor's discretion.

When you are hired into a new home company, you will be credited for any years of service that you have worked for the Tribal Governmental Operations, EDC and/or Kewadin Casinos- Hotel and Convention Center for the purpose of the years of service recognition program. However, your date in position and vacation accrual date will be changed to reflect your new date in position in the new home company. The only exception to this rule is when you transfer to another entity that has the exact same accrual rate as the entity that you are leaving. In this case, you would be allowed to retain your date in position and vacation accrual date from the position that you transferred from. Please contact the Human Resources Department for details in regards to this policy.

CJ2

Casino Vacation Policy Effective March 1, 2013

## **VACATION POLICY**

Vacation benefits are provided so that you may enjoy rest and relaxation away from work. The company strongly encourages you to take all time to which you are entitled to for each benefit year. Vacation time accrual may vary from enterprise to enterprise, please refer to your appropriate handbook supplement, your supervisor or the Human Resource Department to determine what vacation benefits are available to you. If you are eligible for vacation time, please refer to the guidelines listed below.

You must be classified as a regular full-time or part time team member and completed ~~one year~~ **90 days** of continuous employment to be eligible to take vacation time. Vacation accrual rates are based on a team member working a 2080 hour work year. A regular part time team member is eligible to accrue a portion of vacation time based on the number of hours the part time team member works.

Your supervisor has the authority to approve or deny your vacation time based on your job performance and anticipated work loads, etc. The fact that you have accumulated vacation time does not mean that the vacation time is to be taken at your discretion.

Non-exempt team member's vacation time must be requested and approved in advance by your immediate supervisor. Any vacation days taken without approval will result in loss of pay and disciplinary action.

Non-exempt team member's requests for vacation must be in writing and must be put on a vacation request form. Non-exempt team members must submit the request form to their supervisor for approval. Non-exempt team members may keep a copy of the form for their own records. Failure to put the request in writing will result in time off without pay for the hours missed.

One vacation day requires that you give your supervisor at least 24 hours notice of your intent to take vacation time; two days require a weeks notice; longer requires a minimum of a two-week notice. This notice requirement is up to the discretion of the department manager.

You may request time off without pay at the time that you are requesting vacation days if you do not have enough vacation time to cover your absence. Check with your immediate supervisor for consideration and approval.

If a company holiday falls during your vacation **and you are entitled to holiday pay**, the holiday will not be counted as vacation taken.

Up to 20 days of unused vacation entitlement will be paid to team members upon separation provided they have completed at least 1 year of continuous service. The vacation pay out will be computed based on the pay rate earned at the time of separation.

You will be allowed to carry forward a maximum of 30 days (240 hours) of accrued vacation hours into the next calendar year. Any hours remaining over the 30-day maximum allowed to be carried over into the next calendar year will be forfeited at the end of the calendar year. Please note that a team member can request to convert excess vacation time to sick time in order to donate to the sick leave bank as identified in the sick leave policy.

For non-exempt team members, vacation time must be used when serving on a board or committee where an honorarium or stipend is paid and you are attending during working hours. If you do not receive any payment for service, then you can attend at your supervisor's discretion.

When you are hired into a new home company, you will be credited for any years of service that you have worked for the Tribal Governmental Operations, EDC and/or Kewadin Casinos- Hotel and Convention Center for the purpose of the years of service recognition program. However, your date in position and vacation accrual date will be changed to reflect your new date in position in the new home company. The only exception to this rule is when you transfer to another entity that has the exact same accrual rate as the entity that you are leaving. In this case, you would be allowed to retain your date in position and vacation accrual date from the position that you transferred from. Please contact the Human Resources Department for details in regards to this policy.

## **VACATION POLICY**

Vacation benefits are provided so that you may enjoy rest and relaxation away from work. This policy does **not** apply to Sault Tribe Construction and Housing field workers. Please see the Leave Pay Policy to determine what benefits you are eligible for, if you are a field worker. The company strongly encourages you to use all time to which you are entitled to for each benefit year. The following is an explanation of vacation accrual rates:

### **ADMINISTRATIVE**

Exempt team members accrue vacation time at a rate of 15 days for the first year of employment (based on a 2080 hour work year) and one additional day per year of service thereafter, up to a maximum rate of 30 days per year. The team member's entitlement to earn vacation is based on the employment anniversary date.

### **NON-ADMINISTRATIVE**

Non-exempt team members accrue vacation time at a rate of ten days for the first year of employment (based on a 2080 hour work year) and one additional day per year of service thereafter, up to a maximum of 30 days per year. The team member's entitlement to earn vacation is based on the employment anniversary date.

You must be classified as a regular full-time or part-time team member and completed ~~the required introductory period~~ **90 days of continuous employment** to be eligible to take vacation time. A part-time team member is eligible to accrue a portion of vacation time based on the number of hours the part-time team member works.

You will be allowed to carry forward a maximum of 30 days (240 Hours) of accrued vacation hours into the next calendar year. Any hours remaining over the 30-day maximum allowed to be carried over into the next calendar year will be forfeited at the end of the calendar year. **Please note that a team member can request to convert excess vacation time to sick time in order to donate to the sick leave bank as identified in the sick leave policy.**

Your supervisor has the authority to approve or deny your vacation time based on your job performance and anticipated work loads, etc. The fact that you have accumulated vacation time does not mean that the vacation time is to be taken at your discretion.

Your vacation time must be requested and approved in advance by your immediate supervisor. Any vacation days taken without approval will result in loss of pay and disciplinary action.

One vacation day requires that you give your supervisor at least 24 hours notice of your intent to take vacation time; two days require a weeks notice; longer requires a minimum of a two-week notice. This notice requirement is up to the discretion of the department manager.

Team member's requests for vacation must be in writing and must be put on a vacation request form. Team members must submit the request form to their supervisor for approval. Team members may keep a copy of the form for their own records. Failure to put the request in writing will result in time off without pay for the hours missed.

You may request time off without pay at the time that you are requesting vacation days if you do not have enough vacation time to cover your absence. Check with your immediate supervisor for consideration and approval.

Up to 20 days of unused vacation entitlement will be paid to team members upon separation provided they have completed at least ~~six months~~ **one year** of continuous service. The vacation pay out will be computed based on the pay rate earned at the time of separation.

If a tribal holiday falls during your vacation **and you are entitled to holiday pay**, the holiday will not be counted as vacation taken.

For non-exempt team members, vacation time must be used when serving on a board or committee where an honorarium or stipend is paid and you are attending during working hours. If you do not receive any payment for service, then you can attend at your supervisor's discretion.

When you are hired into a new home company, you will be credited for any years of service that you have worked for the Tribal Governmental Operations, EDC and/or Kewadin Casinos- Hotel and Convention Center for the purpose of the years of service recognition program. However, your date in position and vacation accrual date will be changed to reflect your new date in position in the new home company. The only exception to this rule is when you transfer to another entity that has the exact same accrual rate as the entity that you are leaving. In this case, you would be allowed to retain your date in position and vacation accrual date from the position that you transferred from. Please contact the Human Resources Department for details in regards to this policy.