

**ROSEBUD SIOUX TRIBE
ORDINANCE NO. 86-06
PERSONNEL POLICIES AND PROCEDURES
Amended: January 13, 2005 – Resolution No. 2004-319**

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ARTICLE I. STATEMENT OF POLICIES

SECTION A. PURPOSE

The purpose of the Rosebud Sioux Tribe's personnel system is established to recruit, employ, and maintain the most competent, loyal work force for the achievement and objectives of the Rosebud Sioux Tribe.

Guideline sections are designed to properly manage and administer policies and procedures governing employment of the Rosebud Sioux Tribe. Enforcement of policies and procedures is the responsibility of the Tribal Chairman.

SECTION B. LEGISLATION

The Rosebud Sioux Tribal Council shall exercise control over personnel, budgets, policies and procedures through the adoption of resolutions and ordinances they deem necessary. The Tribal Council, grantee of its grants and contracts, will pursue those directors/coordinators for mismanagement of the department.

SECTION C. EXEMPT FROM POLICY AND PROCEDURES

Exempt from these policies and procedures shall apply to the following:

- a. Elected officials of the Tribe: Tribal Chairman, Vice-Chairman, Secretary, Treasurer, Sergeant-At-Arms, and Members of the Rosebud Sioux Tribal Council.
- b. Members of committees appointed by the Tribal Council.
- c. Contract employees (when exempted by Tribal Council).
- d. Emergency disaster employees (other than tribal employees).

SECTION D. POLITICAL APPOINTMENTS

Political Appointments shall not have decision making authority related to the Personnel system. The Tribal Council may prescribe such salaries as it deems advisable from such funds as may be available. The appointments shall serve under the direct supervision of the Administration. Discharge from appointment shall terminate without notice and shall have not right to appeal.

SECTION E. CHAIN OF COMMAND

It shall be administrative policy that employees in tribal service shall be required to adhere to chain of command (proper authority) procedures in documentation form.

Breach of chain of command will be referred back to the appropriate level.

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ARTICLE II. DEFINITION OF TERMS

APPOINTING AUTHORITY

The Tribal Chairman who is authorized to appoint employees for the respective supervisory units of the tribal government.

COMPENSATORY TIME

The hours absent from duty granted to compensate for authorized overtime.

CONTRACT EMPLOYEE

Any individual or organization contracted to provide a specific service for the Tribe.

DEMOTION

The movement of an employee from a position to another position resulting in a decrease or reduction in pay.

DIRECTOR

The head of a major department who is responsible for the administration of a program or project who has recommending authority to the Tribal Chairman.

DISCHARGE OR DISMISSAL

Termination of employment for cause.

DISCIPLINARY ACTION

An oral warning, written reprimand, suspension, demotion, (other than for budget reduction) or dismissal taken for cause by proper authority.

EFFECTIVE DATE

The date at which any personnel action begins or ends.

ELIGIBILITY DATE

The date of successful completion of probation of ninety (90) days and thereafter the end of each year of uninterrupted satisfactory service in the same position.

ELIGIBLE

The status of an individual who meets the minimum qualifications for a specific position and who may be certified for appointment to a position.

EMPLOYEE

A person occupying a position in the tribal service.

EXEMPT EMPLOYEE

Those employees that are not subject to these rules and regulations.

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GRIEVANCE

A misunderstanding or disagreement between an employee and a supervisor that is related to working conditions and/or relationships or to tribal policies and procedures.

IMMEDIATE FAMILY

The group of individuals including the employee's parents, spouse, children, sister, or brother, grandparents, in-laws (as mentioned), or common law relationships.

INDIAN PREFERENCE

Preference given to tribal members or to other Indians.

LAY-OFFS

The separation of an employee from the tribal services because of a lack of work, funds, or other reasons not related to fault, delinquency, or misconduct on the part of the employee.

PAY RANGE

The minimum, intermediate, or maximum rates of pay established for a particular position.

PERMANENT EMPLOYEE

An employee who has been appointed to a permanent position in a tribal job in accordance with these rules and after successful completion in a probationary period.

PERSONNEL ACTION FORM

A standard form which reflects pertinent information regarding hiring or any other changes in an employee's status.

PERSONNEL COMMITTEE

The Committee shall consist of seven (7) members all to be members of the Tribal Council. Each Committee member shall have one (1) vote.

POLITICAL APPOINTMENT

A defined position directly appointed by the Tribal Chairman.

POSITION

A group of current duties and responsibilities assigned or delegated by the director to one person. A place of occupancy within the tribal services with defined responsibilities as documented by a job description.

PROBATION

Specific time periods which the employee's work is evaluated to determine fitness for a position in tribal service.

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PROMOTION

The movement of an employee from a position to another resulting in an increase in pay and/or increase in duties.

SUSPENSION

An involuntary absence without pay imposed upon an employee for disciplinary reasons or pending final result of an appeal.

TEMPORARY EMPLOYEE

An employee who has received an appointment for a specified limited period not to exceed three (3) months on a full time or part time basis and whose appointment may be terminated without notice.

TRAINEE

Any person employed by the Tribe under a training program or project for a defined limited period of time.

TRANSFER

The movement of an employee from the position to another position within the same pay range.

TRIBAL COUNCIL

The policy making and governing body of the Tribe.

VACANCY

A duly created position which is not occupied for which funds have been provided.

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ARTICLE III. EMPLOYMENT POLICIES

SECTION A. RECRUITMENT PROCEDURES

A point system is hereby established to assist in the selection process of employment. The Personnel Director shall complete the recognized point system of which shall be retained by the Tribal Personnel Office and kept in the employee's personnel file.
(Amended 04/11/88 Resolution #87-193)

Subsection a. Advertisement

All new, vacant, and permanent positions with the Tribe shall be advertised and filled by the following procedures:

1. A notice describing the duties and responsibilities of the position, the position title, salary range, requirement as a condition for the position, minimum qualifications and closing date for applications shall be prepared and posted in the tribal building, aired over radio stations, and advertised through newspapers when feasible.
(Amended 04/11/88 - Resolution #87-192)

2. Announcements shall be posted for a minimum of five (5) working days and shall not exceed ten (10) working days, unless a longer announcement period is needed to attract a sufficient number of qualified applicants for the position to be filled.

A written request must be submitted by the proper authority to the Personnel Office for the additional extension not to exceed ten (10) working days.

However, in some cases such as the training programs may not be required to advertise positions.

3. Emergency appointment is permissible and shall not exceed thirty (30) calendar days. Appointments must have the respective committee approval to the appointment.

Subsection b. Applicants

Persons who apply for the position shall complete the appropriate employment application and file the application at the designated place in the public notice prior to the deadline stated in the same notice.

Subsection c. Indian Preference

The primary source of recruitment shall be the enrolled membership of the Rosebud Sioux Tribe in accordance with RST Resolution No. 73-07 (for reference)

From time to time, as members of the Rosebud Sioux Tribe demonstrate their competency, desire, and ability, non-enrolled tribal employees, upon prior agreement during initial hiring, will be asked to resign their positions to such qualified members of the Rosebud Sioux Tribe. With all due consideration to non-enrolled tribal employees, care shall be taken so as to give

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such employee at least one month's notice of such action taken by the proper authority. Such action shall not be deemed as unsatisfactory performance of the part of the employee, unless such is the case.

This policy is in harmony and accordance with the Indian Preference Act, Indian Civil Rights Act, and Indian Self Determination Act as passed by the various congress of the United States of America and Rosebud Sioux Tribe Resolution No. 73-07

Subsection d. Rejection of Applicants

An applicant may be rejected by nature of reason(s) stated for the following:

1. The applicant is found to lack the qualifications prescribed for admission.
2. The applicant has a record of unsatisfactory employment.
3. The applicant has used or attempted to use political pressure to secure an advantage.
4. The applicant has practiced or attempted to practice deception or fraud in the application submitted.
5. Specified ninety (90) day ineligibility provisions of these rules and regulations under discharge or resignation.
6. Applicants must possess a valid state driver's license, a commercial driver's license (Class A or B) and must qualify to operate a government-owned or leased vehicle. Applicants who do not possess these requirements will not be eligible. (Amended June 10, 1993 - Res.# 93-146) to reflect RST Roads Maintenance Department.

Whenever an applicant does not qualify for a position under provisions of these rules, the applicant may request in writing for such denial. The request shall be submitted to the Personnel Office within five (5) working days.

If the applicant is not satisfied with the reasons, he/she may request in writing to meet with the Personnel Director and the proper authority within ten (10) working days to determine the qualifications of the position in question. The decision shall be made in good faith and shall be final.

Subsection e. Eligibility List

The Personnel Director shall review all eligible applications for the advertised position. The eligible list of applications will be referred to the department head. In the case of director/coordinator employment, the eligible list of applications will be referred to the Tribal Chairman and any appropriate committee for final Tribal Council action.

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Subsection f. Interviews

After consultation with the department head, the Personnel Director may schedule interviews with the eligible list of applicants selected for interviews and upon request, will test the applicants skills in performing duties as required for the position.

(Amended 04/11/95 - Resolution #87-189)

If there is an insufficient number of applicants to be interviewed or there is a lack of qualified applicants, re-advertisement is permissible.

Subsection g. Selection

All applicants will be notified by letter of the selection and applications not selected will be returned to the applicant. (Amended on 04/11/88 - Resolution #87-195)

Selection of the employee in tribal service shall be by the department head.

Recommended selection of the director/coordinator in tribal service shall be by the appropriate committee for Tribal Council action.

Honorable Discharged U.S. military veterans shall be given first preference.

Subsection h. In-house promotion

In-house promotions need not be advertised as long as the employee meets all the qualification for the position. (Amended 04/11/88 - Resolution #87-196)

SECTION B. IDENTIFICATION PROCEDURES

Subsection a. Original Status

An applicant selected to fill a position shall be considered as original status and after successful completion of probation, status shall be considered a permanent employee.

Subsection b. Promotional Status

An employee promoted to a higher graded position shall be considered as promotional status and the evaluation process shall affect performance only.

Subsection c. Part-Time Status

An applicant selected to fill a part-time position shall be considered as part-time status and shall be made in the same manner as positions of permanent employment. However, permanent part-time employees will follow fixed schedules with a copy submitted to the Finance Office.

Subsection d. Shift Status

An employee under shifting hour conditions of the position shall be granted a waiver by the department head and the Tribal Chairman in writing on the time clock. Provided an employee complies with a standard attendance form where a time clock is unavailable.

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Subsection e. Temporary Appointment Status

Appointment will follow procedure as set forth and will not receive benefits due permanent employees. Temporary or seasonal positions may be made by the proper authority only with the approval of the Tribal Chairman. However, such appointments shall not exceed nine months in duration for seasonal employees and three months in duration for temporary employees in conditions of maternity leave and approved leave without pay.

Subsection f. Trainee Status

Any trainee employee, employed in any training program or project in tribal service shall adhere to the policies and procedures and/or for the defined limited period of time and eligibility of benefits due as specified in the contract.

Subsection g. Designated Construction Status

A laborer or tradesman employee employed with the Housing Improvement Program will be entitled to the specified fringe benefits, overtime pay as stated in the contract (refer to Contract Work Standard Act).

Administration personnel shall adhere to policies and procedures.

SECTION C. PROBATIONARY PROCEDURES

Subsection a. Initial Probation Period

An orientation will be scheduled for all new employees and conducted on the first day of employment by the Personnel Director and the proper authority. A new employee shall be placed on a probationary period of ninety (90) days. Annual leave will be earned but cannot be used during this period. Sick leave will be earned and can only be used with a physician's statement during this period.

An orientation packet will include the following:

1. Appropriate personnel action forms.
2. withholding tax forms.
3. Probation agreement forms.
4. Employment agreement forms
5. Evaluation forms.
6. Beneficiary forms.
7. Statement of review of policies and procedures.
8. Equipment sign-out form (if applicable).
9. staff introduction.

Subsection b. Initial Termination of probation

Three (3) working days prior to the completion of the probationary period, the proper authority will evaluate the new employee. Rating of the evaluation form, by the proper authority will determine if the employee is to be converted to permanent status or terminated of employment.

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New employees on a ninety (90) day probationary period shall have no right to appeal.

Subsection c. Promotional Probationary period

Within the program, an employee promoted to a higher position will be placed in a sixty (60) day probationary period that shall affect performance only.

Subsection d. Promotional Termination of Probation

Three (3) working days prior to the completion of the probationary period, the proper authority will evaluate the employee. The proper authority will meet with the promoted employee about the evaluation and any improvements that may be needed. The probationary period will then be terminated or extended another thirty days upon the recommendation of the proper authority to the Personnel Director. If an extension is necessary, the promotional employee will then be reevaluated at the end of the extension.

Subsection e. Demotion

A department head, with the concurrence of the Personnel Director, may demote or reduce in position and pay any employee in the department for either the good of the service or as a disciplinary measure for cause. A permanent employee, with the exception of an employee on probationary status, demoted or reduced in position and pay shall have a right to appeal to the grievance and appeals policies.

SECTION D. PAY PROCEDURES

Subsection a. Pay and Promotion

Pay schedules and pay policies and procedure will be established by the Tribal Council or appropriate committee.

Employees salary/wages will be paid subject to the appropriate contract budget.

Subsection b. Pay periods

Employees will be paid bi-weekly on a twenty-six (26) pay period annual basis. However, in some cases as approved by Tribal Council, pay periods will be specified in the contract.

Subsection c. Deductions and Employee Expenses

The Finance Office will deduct from each employee's pay check those amounts required by applicable law and those amounts authorized in writing to the Finance Office from the employee from all deductions, loan payment deduction, rent, etc...

Subsection d. Outstanding Loan with the RST Credit Program

That all present and future employees who have outstanding loans with the Rosebud Sioux Tribal Credit Program shall within the next thirty (30) calendar days execute a payroll deduction in favor of the RST Credit Committee in an amount agreed upon by the RST Credit Committee and the employee. The amount shall not exceed more than 25%

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of the employees take home pay per pay period. The payroll deduction shall remain in effect until the loan is paid in full.

The Tribal Treasurer, periodically, upon request of the RST Credit Committee, shall verify in writing employee names and salary amount.

If any employee refuses or fails to comply with the provisions of this resolution within thirty (30) calendar days after written request from the RST Credit Committee, the RST Credit Committee will then notify the Supervisor and employee to comply with the conditions set forth. The employee will have ten (10) working days to contact the RST Credit Office.

Failure of any employee to comply with the provisions of this resolution shall constitute cause to terminate employment with the Rosebud Sioux Tribe.

SECTION E. ATTENDANCE PROCEDURES

Subsection a. Hours of Work

Hours of work will be from 8:00 a.m. to 5:00 p.m. Lunch break will be one hour normally from 12:00 p.m. to 1:00 p.m. There will be a one 15 minute coffee break in the a.m. and a one 15 minute coffee break in the p.m. these hours may vary on specified conditions for some programs, provided it shall not affect services to the public. This will be at the discretion of the Tribal Chairman in writing. Employees will be expected to work a full eight (8) hours. (Amended 04/11/88 - Resolution #87-197)

In case of unavoidable absence or delay, the employee will immediately notify the proper authority within one hour of the scheduled beginning of work. Employees failing to call in shall be placed in A.W.O.L. status and will be subject to disciplinary action.
(Amended 04/11/88 - Resolution #87-190)

Subsection b. Time Clock

Use of time clock will be mandatory for tribal employees with the exception restricted to shift status employees and community station base field workers who are not near a time clock. The exempt status of these employees must be approved in writing by the Tribal Chairman and a copy to the Finance Office.

Subsection c. Tardiness or Early Departure

A five (5) minute grace period is allowed at the beginning of the normal scheduled hour of work.

Tardiness beyond the grace period will require the employee to use the appropriate leave, subject to approval by the proper authority. Employees will be docked a half hour for every thirty minutes they are late. Leaving work early within the hour will require the employee to use the appropriate leave, subject to approval by the proper authority. Employees will be a half hour for every thirty minutes they leave early.

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Working through lunch hour(s) or after the normal scheduled work hours to make up for time or hour loss(es) and/or tardiness is not permissible. Refer to Article IV, Section B, subsection c, overtime/comptime.

Employees who are repeatedly late for work, leaving work early without authorization or who otherwise work less than the required amount of time are subject to disciplinary action by the proper authority. (Amended October 15, 1992 - Res. # 92-249)

SECTION F. TRANSFER PROCEDURES

Subsection a. Interdepartmental Transfers

A position may be filled by transferring an employee from another position for the same or similar position having the same salary range. Interdepartmental transfers must be approved by both departments and the employee. Such transfers must also receive the approval of the Tribal Chairman and the Personnel Director. Employees requesting a transfer must use all accrued annual leave before the transfer is completed. Failure to do so will result in forfeiture of annual leave.

SECTION G. EVALUATION PROCEDURES

Subsection a. Probationary Status

All new employees in tribal service will be placed on a ninety day probationary period. However, during this period the proper authority may conduct a sixty (60) day evaluation on the employee for necessary improvements needed and shall, at the completion of the original ninety (90) day probationary period, reevaluate the employee. Upon recommendation of the proper authority, the probationary period may be terminated or employment terminated.

All probationary employees promoted to a higher position within the program shall be placed on a sixty (60) day probationary period that shall affect performance only. The proper authority may meet with the employee on any improvements needed. Upon recommendation of the proper authority, the probationary period may be terminated or extended for an additional thirty (30) days.

Subsection b. Semi-Annual Evaluation

Every six (6) months, the proper authority will conduct an evaluation on each employee within the tribal services. All employee evaluations shall be retained by the Tribe and kept in the employee's personnel file and the Personnel Office. Unsatisfactory evaluations shall be subject to disciplinary action or termination.

SECTION H. REORGANIZATION PROCEDURES

Reorganization procedures shall apply to revisions of approved contracts or approved budget status affecting a program, department, or project approved by the Tribal Council.

Reduction in staff shall require a two (2) week written notice or as determined by the appropriate budget for the employees final check. Under no circumstances will any employee be terminated

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from tribal service for “change of administration” except those employees identified as political appointees.

SECTION I. NEPOTISM PROCEDURES

No person/employee shall be hired to a position in which the spouse, children, parent, grandparent, brother, sister, or in-laws as mentioned in these procedures is serving as the immediate supervisor.

SECTION J. CONFLICT OF INTEREST PROCEDURES

A tribal employee’s private interest of a political, economic, or other nature which conflicts with or raises a reasonable question of conflict of interest with the tribal duties as an employee of the Tribe shall not be permitted.

All tribal employees serving by appointment to any board, commission, committee, etc. , which appointment is not directly related to tribal employment and which conflicts or raises a reasonable question of conflict of interest with tribal duties, shall serve in such positions only upon approval by the proper authority, Tribal Chairman, and Tribal Council. Decisions of conflict of interest shall be made by the proper authority. Any employee who is on a board outside of Tribal controls will have to take leave without pay to attend the meetings of the board. (Amended 04/11/88 - Resolution #87-191)

SECTION K. POLITICAL PROCEDURES

No employee in tribal service shall be involved in any political activities during working hours unless such employees are on annual leave or leave without pay authorized by the proper authority.

All political activities will be done at their own expense and on their own time and shall not interfere with the performance of any other tribal duties. Violation of these procedures shall be cause of dismissal.

Employees in tribal service who choose to run for any elected tribal office shall not be terminated from employment during the election process.

However, an employee successfully elected to the Tribal Chairman, or Vice-Chairman office shall resign from employment two (2) weeks prior to taking official office.

The determination of continued or terminated employment for employees successfully elected to the tribal representative office will be made at the time when the opinion is received. Tribal Council will then enact on it and make it into an ordinance (law) on Council representatives working on tribal supported programs contracts.

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SECTION L. RECOGNITION PROCEDURES

The Administration of the Rosebud Sioux Tribe shall exercise and recognize employees with such certificate awards on completion of employment training or achievement certificates in Tribal service.

Cash awards for such recognition may be permitted according to the appropriate budget guidelines not to exceed \$100.00 (net).

SECTION M. NON-DISCRIMINATION OF HANDICAP PROCEDURES

Any issues regarding compliance with Section 504 of the Rehabilitation Act of 1973 and procedural requirements, reference will be made in accordance with the Federal Register and American Disability Act. (Amended January 14, 1993 - Res. # 93-12)

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ARTICLE IV - LEAVE POLICIES

SECTION A. HOLIDAY LEAVE PROCEDURES

Any holiday designated as a paid holiday by the Tribal Council shall be considered a legal holiday for employees in tribal service. The following is a list of paid holidays observed by the Rosebud Sioux Tribe:

1. New Year's Day (January 1st)
2. Martin Luther King's Birthday (Monday Following the 15th)
3. Presidents Day
4. Memorial Day (May 30th)
5. Tribal Elder Day (Last Saturday in May)
6. Indian Day (June 25th)
7. Independence Day (July 4th)
8. Labor Day (1st Monday in September)
9. Veterans Day (November 11th)
10. Thanksgiving Day (4th Thursday in November)
11. Christmas Day (December 25th)

Any other day designated as a holiday by the Rosebud Sioux Tribal Council.

Holidays occurring on Saturday will be observed on the preceding Friday. Holidays occurring on Sunday will be observed on the following Monday. Employees who are designated to work on a designated holiday will receive time off as determined by the proper authority. Employees on annual or sick leave status during that holiday shall also receive the paid holiday for that day.

SECTION B. EARNING OF LEAVE PROCEDURES

Subsection a. Annual Leave

Employees with less than three (3) years of service will accumulate four (4) hours per pay period. Employees employed more than three (3) years but less than ten (10) years will accumulate six (6) hours per pay period. Employees employed more than ten (10) years will accumulate eight (8) hours per pay period. (Amended 04/11/88 - Resolution #87-187)

Employees earning rate will begin a four (4) per pay period. Employees claiming three or more years of service shall submit a written statement to the proper authority and the Personnel Director. Eligibility claim for years of service shall be based on each successful year of employment within the program. Upon verification by the Personnel Director, The proper authority shall determine the recommendation to the Personnel Director for approval.

The maximum carryover is the next fiscal year shall be on hundred and sixty (160) hours of annual leave.

An employee who terminates his employment during any fractional part of the pay period will not accumulate any leave for that pay period.

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Upon separation from employment, an employee will be paid for the unused portion of his/her accrued annual leave, subject to contractual budget and less any debts owed to the Tribe by the employee. Final annual leave check will be issued in compliance with federal guidelines.

On termination or completion of employment, an employee will not be paid for any accumulated overtime.

Payment to beneficiaries of deceased employees include accrued annual leave to the employee's credit at the time of death subject to contractual budget. Payment shall be made less any debts owed to the Tribe by the employee.

There shall be no advance of annual leave to any employee in tribal service under these policies and procedures.

Subsection b. Sick Leave

Employees will accumulate four (4) hours of sick leave per pay period. Permanent part-time employees will earn sick leave at prorated basis on the number of hours worked.

Earning of hours for any length of employment in tribal service shall be four (4) hours for sick leave earnings.

Sick leave will be authorized subject to approval by the proper authority when an employee is incapacitated by sickness or injury, for medical, dental, optical diagnosis, counseling, or treatment when an employee's attendance jeopardized the health of others, or, for the care of immediate family in the event of serious illness.

Periods of illness which exceed two (2) consecutive work days shall require a certification of illness from a physician or medicine man.

There will be no limit to the amount of sick leave accrued. However, upon separation from tribal service, all unused sick leave will be forfeited and will not be restored. There will be no advancement of sick leave.

Subsection a. Overtime

Payment for time worked in excess of the normal work week, forty (40) hours is not normally provided for by the Rosebud Sioux Tribe, unless specified in that approved program contract. If overtime work is necessary and is not specified in the program contract, compensatory time off with pay will be allowed on an hour for an hour and a half basis providing that the employee had obtained authorization from his immediate supervisor prior to working overtime and must be used within four (4) weeks. If not used in four weeks, it shall be forfeited.

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Directors/coordinators are expected to work in excess of a forty hour week without additional compensation to complete normal duties or to attend meetings or conferences.
(Amended for RST Roads Department. Res. #93-146)

Over-time pay is for time worked in excess of the normal work week, forty (40) hours. The work week begins on Sunday and ends on Saturday.

Over-time will be paid at an hourly rate equal to one and one-half times the employee's hourly rate.

Over-time must be ordered and have prior supervisory approval and be for work over and above that normally expected of the employee. No employee shall receive over-time for work which should normally be performed during regular working hours.

SECTION C. PENALTY OF LEAVE PROCEDURES

Subsection a. Leave Without Pay

Leave without pay shall not be granted until all accrued annual leave has been exhausted except in cases of disciplinary action.

When an employee requests leave for other employment purposes, such as consultant work, etc. , he/she will be required to take leave without pay provided the employee can be spared without detriment to the work. This must be approved by the proper authority and the Tribal Chairman.

An employee may be granted leave without pay for justifiable document reasons for a period not to exceed three (3) months for illness or disability without resulting in separation for tribal service by the proper authority and the Tribal Chairman.

No type of leave shall be earned during the period of leave without pay and the period of leave without pay shall not be accredited as service time for salary increases, increased earnings of annual leave or any other service benefit.

Subsection b. Absent Without Leave

An employee absent without leave or authorization shall be subject to disciplinary action or in repeated instances immediate termination. Tardiness or failure to call in within the hour will be treated as absent without leave.

An employee on absence without leave status will not accrue annual or sick leave earnings for any part of the pay period.

SECTION D. MATERNITY/PATERNITY/ADOPTION LEAVE PROCEDURES

An employee who becomes pregnant may continue to work until such time as she can no longer satisfactorily perform her duties, or her physical condition is such that her continued employment

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may be injurious to her health. An employee will be required to present a medical certification from her physician.

Authorized maternity leave shall be granted not to exceed five (5) working days before or after the expected birth. Excess maternity leave for additional four (4) weeks shall use overtime, sick leave, annual leave, and leave without pay in that order.

When possible, the Tribe will fill vacancies created by leave without pay with temporary appointments.

Authorized paternity leave shall be granted not to exceed three (3) working days before or after the expected birth.

Authorized leave shall be granted to both adopting parents not exceed three (3) working days after the child has been approved and is received into the adopting parents home.

SECTION E. ADMINISTRATIVE LEAVE PROCEDURES

Employees shall be granted administrative leave for any of the following reasons at the discretion of the Tribal Chairman:

- a. taking a physical examination required for determining continued employment.
- b. taking a physical examination required for entry into the military forces or when required by the local draft board. Leave not to exceed three days.
- c. being unavoidably absent or tardy from duty for less than one hour due to weather conditions, as declared by the Tribal Chairman in writing.
- d. release from work due to weather conditions shall be determined and declared by the Tribal Chairman in writing.
- e. donating blood to the American Red Cross or in emergencies to individuals for the time necessary for such donation and shall not exceed four hours providing the employee does not receive pay for blood.
- f. taking part at the discretion of the proper authority, in public activities of which the Rosebud Sioux Tribe participates in provided that the employee can be spared without detriment to the work and provided further, that it would not require employment for a relief worker or payment of overtime and not to exceed two (2) working days.
- g. participating in emergency rescues under the same provision stated in paragraph (f) of the above.

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- h. an employee who desires to go register and/or vote in an election, referendum, or a civil matter in his/her community shall be granted two (2) hours administrative leave without charge to annual or leave without pay.
- i. building conditions, when the defect cannot be repaired in a reasonable time and as declared by the Tribal Chairman in writing.

SECTION F. FUNERAL LEAVE PROCEDURES

Funeral leave shall be granted to an employee up to three (3) days for members of the employee's immediate family (parents, spouse, children, brother, sister, grandparents, and in-laws, as mentioned) . Approval in advance is not necessary for granting of leave.

Participating as an active pallbearer or functionary in funeral ceremonies shall also be granted not to exceed four (4) hours in any one day.

Employees other than the mentioned immediate family shall be required to use the proper authorized leave for time released from work.

SECTION G. JURY DUTY OR COURT WITNESS PROCEDURES

An employee subpoenaed and/or summons as juror or as a witness shall be required to appear in any court of law (federal, state, or tribal court).

An employee shall be entitled to authorize leave without pay for the entire number of hours or days required and shall be required to report the entitlement of compensation.

In case of jury duty or as witness not entitle for compensation by the courts, that employee shall be required to use the proper leave for time released from work.

An employee authorized leave without pay on the above conditions shall be granted a waiver, and shall not be subject to specified penalty of LWOP status on earnings. An employee providing false information for authorized leave without pay shall be subject to disciplinary action or immediate termination.

Any other court related matter, other than that mentioned above, shall be required to use the appropriate leave by the proper authority.

SECTION H. EDUCATIONAL LEAVE PROCEDURES

Permanent employees shall be granted education leave to attend classes at Sinte Gleska College under the following conditions and provided classes are program related:

- a. Authorized education leave will be prorated to 160 hours per college school year. However, the employee will continue to be paid his/her normal salary including the accruing of annual and earning of sick leave (depending on grant/contract guidelines) and provided verification of class attendance is attached to time and attendance reports.

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- b. the employee will request education leave in writing to the proper authority provided the employee can be spared without detriment to the work. The proper authority will forward the request and written recommendation to the Personnel Director for approval.

SECTION I. MILITARY LEAVE PROCEDURES

Employees who are ordered to active duty or to an initial period of active duty in, enlist in, or are inducted into the Armed Forces of the United States or the Public Health Service may, at their own request in writing, be placed on military furlough (excused from their tribal functions for such periods as they remain on active duty) without pay. Official documentary evidence must be provided by the employee, in writing, two weeks in advance for such furlough to be granted.

Failure to return to work without such written documentation within five (5) working days after being ordered or inducted into active duty or after having enlisted in the Armed Forces shall be deemed as resignation by the employee which shall result in termination of employment unless there are extenuating circumstances beyond the control of the employee.

Employees under these provisions are entitled to restoration when he/she satisfactorily completes the training and service and receives a certificate to that effect is released from service under honorable conditions and applies for restoration within ninety (90) days after release from service or discharge from hospitalization provided the individual is able to work.

An employee is not entitled to their previous position. However, they are entitled to a position within the same pay range in tribal service. Any further questions on military leave should be answered by federal guidelines under the Department of Labor.

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ARTICLE V - DISCHARGE POLICIES

SECTION A. EMPLOYEE CONDUCT PROCEDURES

Employees of the Rosebud Sioux Tribe, are expected to conduct themselves on the job in a manner which will reflect high integrity, high standards of honesty, impartiality and behavior. During working hours, employees are expected to assist the public and maintain a cooperative working relationship. Conduct which is not fulfilling of these requirements will have disciplinary action appropriate to the misconduct. Employees are also considered to be under the employ of the Tribe when traveling on official business and they are expected to maintain proper conduct when representing the Rosebud Sioux Tribe.

SECTION B. DISCIPLINARY PROCEDURES

It is the responsibility of all tribal employees to observe the regulations necessary for the proper operation of tribal government functions.

Subsection a. Causes for Disciplinary Action

Disciplinary actions and causes shall be as follows:

- a. gross neglect of duty or refusal to comply with lawful instructions unless such instructions are injurious to the employee or general public's health or safety.
- b. insubordination - a verbal refusal to comply with a request from a proper authority. Insubordination shall also include the deliberate undermining of the program or the proper authority.
- c. Conviction of a felony or embezzlement while in the employ of the tribe.
- d. indulgence in offensive conduct or using offensive language towards the public, in public, or towards tribal officials or employees.
- e. deliberate or careless conduct endangering the safety of the employees or other employees.
- f. conducting or attempting to induct any employee in the service of the Tribe to commit an unlawful act or to act in violation of tribal regulations.
- g. using, threatening or attempting to use personal or political influence in an effort to secure special consideration as a tribal employee.
- h. incompetency and inefficiency in their performance of job duties or not maintaining a satisfactory rating on performance appraisals.
- i. carelessness or negligence with the monies or properties of the tribe.
- j. theft or intentional destruction of tribal property.
- k. intentional falsification of personnel records, time reports, or other tribal records.
- l. use of or being under the influence or intoxicating or unlawful drugs while on duty.
- m. sleeping on duty during working hours.
- n. excessive absenteeism and/or tardiness.
- o. violating a safety rule or safety practice.
- p. failure to report to work without proper notification to the proper authority or failure of calling in or written notification within the commencing of the third day of absenteeism.
- q. failure to abide by the time clock procedures.

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- r. inattentiveness to work, failing to start work at the designated time, quitting work before proper time, or leaving working premises during working hours without authorization from the proper authority.
- s. vending, soliciting, or collecting contributions on Tribe's time or premises without proper authorization.
- t. willful misuse or unauthorized use of vehicles for other than official travel, meaning in the case of government care, related to performance of the contract; or in the case of tribal government.
- u. the use of a GSA vehicle or tribal vehicle for transportation between the employee's home and place of employment without specific authorization from the Government and the Tribal Council.
- v. When an employee has violated any of the preceding rules, the employee shall be subject to appropriate disciplinary action.

Subsection b. Types of Disciplinary Action

The proper authority shall determine the following types action or discharge that affect disciplinary action:

- a. Oral Warning: whenever grounds for disciplinary action exist, the proper authority determines that more severe action is NOT immediately necessary. The supervisor will orally communicate to the employee the supervisor's observation of the deficiency at the time. Sufficient time for improvement shall precede formal disciplinary.
- b. Written Warning or Reprimand: the proper authority shall reprimand for cause. Such reprimand shall be in writing and be addressed to the employee. A copy shall be delivered to the Personnel Director for inclusion in the employee's file. Written reprimands will be purged from an employee's file at the end of twelve months from the date of issuance.
- c. Suspension: the proper authority shall suspend without pay, and employee in the tribal service not to exceed fifteen calendar days as a disciplinary action for cause. On or before the effective date of the suspension, the Personnel Director and the employee shall be furnished with a written copy of the statement setting forth the reasons for suspension. Upon receipt of the written statement of suspension, the employee may appeal to the Grievance and Appeals Policies as provided in Article VI. An employee that has been suspended once and within a two (2) years period requires disciplinary action strong enough for suspension shall be terminated. The proceedings for termination will be immediately initiated by the Administration. (Amended Resolution #87-188)

SECTION C. TERMINATION PROCEDURES

Before an employee would be issued a final pay and annual leave check, that employee shall complete clearance through the Personnel Office, the Finance Office, Property & Supply Office, and Oiciyapi Federal Credit Union. The following shall be considered valid reasons for discharge employment, the proper authority shall dismiss for cause an employee in the department or program delivering a written statement of reasons and as stated on the personnel action form to

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the employee with a copy to the Personnel Office. Upon receipt of the statement of discharge, the employee may appeal to the Grievance and Appeals policies. Those employees dismissed for cause shall not be reemployed by the Tribe for a period of ninety (90) days. No waivers shall be granted.

Directors/coordinators arbitrarily suspended or terminated by the Tribal Chairman shall be entitled to a hearing to be scheduled before the Tribal Council through the Tribal Secretary's Office.

SECTION D. RESIGNATION PROCEDURES

Any employee who desires to resign from tribal employment shall complete the appropriate personnel action form and submit it to the department head, giving the department at least two (2) weeks notice ending with the scheduled pay period. The department head may, with concurrence of the Personnel Director, agree to permit a shorter period of notice due to extenuating circumstances or when it is in the best interest of the Tribe. Failure to comply with the notice requirement shall cause an employee to forfeit one day of accrued annual leave and/or overtime for each day short of the required two week notice and such action shall be noted in the employee's personnel file.

Normally, the last day worked by an employee shall be considered the date of separation and the employee shall be compensated for all unused annual leave accrued to that date.

An employee who resigns from one position to accept another position and resigns from that position during the probationary period shall not be eligible for reemployment for a period of ninety (90) days. No waivers will be granted.

SECTION E. REDUCTION IN FORCE LAY-OFF

The proper authority shall separate any employee without prejudice because of lack of funds or curtailment or work, after giving notice of at least two weeks to such employee. However, no permanent employee shall be separated from any department while there are temporary or probationary employee serving within the department.

The conditions of reduction in force lay-off for permanent employees shall be as follows:

- a. Preference for retention shall be based first upon seniority of service within the program/department.
- b. A permanent employee in good standing shall not be terminated as a result in reduction in force procedure before the employee has been made a reasonable offer of reassignment if offer is possible and if the employee had not been told when hired the job would be phased out.

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ARTICLE VI. GRIEVANCE AND APPEALS POLICIES

SECTION A. GRIEVANCE COMMITTEE

The Grievance Committee shall investigate, make determinations, and recommendations to the Tribal Chairman on employee grievances not resolved at lower levels.

The Committee shall consist of five (5) members that shall be appointed by Tribal Council. Each Committee member shall have one (1) vote. No more than one (1) member shall be appointed from any one community and no employee of the Tribe or Tribal Council shall be eligible for appointment.

Terms of the members of the Committee shall be: three (3) years and two (2) of the members shall serve a term of two (2) years.

The Committee shall, at its first regularly scheduled meeting of each calendar year, select a chairman to serve two years. The chairman will preside at all meetings and hearings and receive and coordinate all notices, requests for hearings, complaints, and other official business of the Committee.

The Committee shall meet once a month at the discretion of the Chairman of the Grievance Board. In case of any scheduled hearings, a special meeting may be called by the Committee Chairman, allowing time for notification to all members. Three (3) members shall constitute a quorum for official business.

A member missing four meetings or failure to fulfill their duties shall be subject to removal upon recommendation to the Tribal Council by the Grievance Committee Chairman. Vacancies on the Committee shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

All action of the Committee shall have the concurrence of the majority present. Any and all actions of the Grievance Committee shall be kept on file in the Tribal Secretary's Office.

SECTION B. CODE OF ETHICS

A Code of Ethics is hereby established for the members of the Grievance Committee:

1. Members shall complete attendance and participation in all duly called regular or special meetings.
2. Members shall exercise authority only when in session with the Committee and when delegated by the Committee to represent it.
3. Members shall have respect for all persons who file an aggrieved matter with the Committee and shall respect the confidentiality of any grievance session or executive session.
4. Members shall disqualify him/herself from any decision or voting on any grievance issue directly related to their immediate family (spouses, parents, grandparents, brothers, sisters, or in-laws as mentioned in the above or common-law relationships)

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5. Members shall render decisions based on documented facts and in good faith and in accordance to Personnel Policies and Procedures and shall fully support the decision.
6. Members shall not accept special or political advantages on any case from any person in an attempt to influence the Committee decision.
7. Members shall be obligated to support the Grievance Committee Policies and Personnel Policies and Procedures.

SECTION C. GENERAL

An employee who is aggrieved by any action which relates to working conditions, working relationships, or tribal employee policies, rules, or regulations which cannot be resolved through informal discussions with the immediate supervisor may file a grievance under the provisions of the section to the Grievance Committee within thirty (30) days after the occurrence of the action in question. This thirty day limitation may be waived, if, through no fault of the employee, he or she was unaware of the action before the time limit expired or due to extenuating circumstances the aggrieved was unable to file a timely grievance. Failure to act within the time period specified will terminate the grievance.

Grievance shall include, but not limit to, such matters as employee-supervisor relationship, duty assignments not affecting the job description, shift and job locations assignments, hours worked, working facilities and conditions, policies for granting leave, disciplinary action and similar matters.

Only the grievance presented originally shall be considered through the procedure. To insure this, a copy of the original grievance shall be filed with the Personnel Director. Every effort shall be made by the parties to resolve the grievance at the lowest possible level.

No vacancy created by any action with respect to which there has been a grievance filed pursuant to the Personnel Manual shall be filled until such time as the grievance has been finally determined under the guidelines of this Manual.

Employees under probation status cannot file a grievance or an appeal. Accepting the annual leave check will terminate the grievance.

SECTION D. PROCEDURE

If a formal grievance is filed, it shall be filed and processed in the following manner (except that time limits may be waived or extended by written consent by both parties. Employee is entitled to representation.):

STEP 1:

- a. The employee shall present the grievance to his immediate supervisor in writing.
- b. The immediate supervisor shall, within two (2) working days meet with the aggrieved employee and attempt to solve the problem. If the employee is still not satisfied, or if the

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two (2) days passed with no action by the immediate supervisor, employee shall proceed to Step 2.

- c. If the immediate supervisor is also the program director, then the employee shall proceed to Step 3.

STEP 2:

- a. The employee shall request a meeting with the program director, upon receipt of the request, the program director shall arrange to meet with the employee within two (2) working days of the request.
- b. The program director will then investigate the matter fully. However, if the director is unable to solve the problem or fails to grant the employee a hearing, then,

STEP 3:

- a. The employee shall request a meeting with the Personnel Director. Upon receipt of the request, the Personnel Director shall arrange to meet with the employee within two (2) working days of the request.
- b. The Personnel Director will then investigate the matter fully. However, if the Personnel Director is unable to solve the problem or fails to grant the employee a hearing, then,

STEP 4:

- a. The Personnel Director must arrange for a hearing before the Tribal Grievance Committee at their next regular meeting and also accompany the aggrieved.
- b. The employee shall present his grievance before the Tribal Grievance Committee.
- c. The Committee shall render a written decision no later than ten (10) working days after the hearing in writing to the employee.

SECTION E. HEARING

When a hearing is scheduled, written notice shall be sent to all interested parties at least five (5) working days in advance of the day set for the hearing, including a copy of the appeal to be heard and setting forth the time, date, place and purpose of the hearing.

All hearings will be closed to the public unless the Tribe or the employee has requested that a hearing be open. In conducting a hearing, the proceedings shall be informal and the technical rules of evidence shall not apply. It shall be assumed that the action complained of was taken in good faith unless provided otherwise. In lieu of new facts or information documented that may alter or change the decision of the Grievance Committee, a rehearing or new hearing may be scheduled.

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All parties to a hearing shall be entitled to counsel or representation of their own choosing at their own expense. They shall also have the right to have subpoenas issued. The party requesting the issuance of subpoena shall be responsible for service in accordance with the Law and Order Code of the Rosebud Sioux Tribe and for the mileage and fees of the witness.

SECTION F - FINDINGS

Basis for Findings by the Grievance Committee.

Findings of fact shall be based exclusively on the evidence. The employee shall prove by clear and convincing evidence that the allegations made in the employee grievance by the employee are factually correct.

Time period for obtaining consensus on draft decision. Within twenty-one (21) working days of the closing of the hearing and approval of the said Committee's draft decision by the RST Council and RST President's Office the Grievance Committee shall render its findings and decisions to all concerned parties in writing.

Forum, contents, and notice of decisions orders and findings.

A final decision or order of the said Committee shall be in writing or entered verbally in the record. It may affirm, modify, or nullify or reverse actions previously taken or may direct the taking of any action. It shall include a brief and concise explanation of the findings of fact. Parties shall be notified in writing either personally or by mail or any decision or order. A copy of the decision or order shall be delivered or mailed to each party and to his attorney of record. Decisions of the Grievance Committee are final: there is no appeal therefrom. The Tribe does not waive its sovereign immunity to suit arising from employee grievances.

Time period for rendering discussion.

Within twenty-one (21) working days of the closing of the hearing and approval of its draft decision by the RST Council and RST President's Office the Grievance Committee shall render its findings and decisions to all concerned parties in writing.

Forum, contents, and notice of decisions orders and findings.

A final decision or order shall be in writing or entered verbally in the record. It may affirm, modify, or nullify or reverse actions previously taken or may direct the taking of a new action. It shall include a brief and concise explanation of the findings of fact. Parties shall be notified either personally or by mail of any decision or order. A copy of the decision or order shall be delivered or mailed to each party and to his attorney of record.

Prior to notification of the parties of the decision of the Grievance Committee. The Committee's draft decision must be delivered to and approved by the RST Council and Tribal President's Office.

SECTION G. REVIEW

The Grievance Committee may designate one of its members to act as examiner for the purpose of conducting such hearing or may appoint another person to act as hearing examiner. The

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Grievance Committee may appoint any person qualified in the law or possession knowledge or expertise in the subject of matter of the hearing to act as examiner. Any such appointment shall constitute a delegation to such examiner of all powers of a Grievance Committee Member with respect to any such hearing. Decisions of the Grievance Committee are final; there is no appeal therefrom. The Tribe does not waive its sovereign immunity to suit arising from employee grievances.

No Right to Judicial Review.

Decisions of the Grievance Committee are final.

SECTION H. IMMUNITY

If an employee is denied the opportunity to present a grievance as prescribed by this Article or if the employee is threatened or subjected to duress when presenting the evidence, the employee may notify the Tribal Council in writing. The Tribal Council shall authorize an investigation of such complaints and, based upon findings, may present charges against any person who was derelict or discriminatory in considering the grievance. Decisions of the Grievance Committee are final: there is no appeal therefrom. The Tribes does not waive its sovereign immunity to suit arising from employee grievances. (Amendment 01-13-05 – Res. 2004-319)

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ARTICLE VII. PERSONNEL DIRECTOR, RECORDS, COMMITTEE

SECTION A. PERSONNEL DIRECTOR

The Personnel Director shall be experienced in management and administration and be in sympathy with good personnel procedures. The Personnel Director shall be hired/fired in accordance with the policy and procedures. The selection of the Personnel Director shall be approved by Tribal Council action.

The Personnel Director shall be responsible for the day to day maintenance and operation of the tribal personnel program. It is the Director's duty to personally:

- a. assist in conducting personnel investigations and preparing reports for the Grievance Committee on matters under its consideration.
- b. establish and maintain a file of all employees showing that all personnel files shall be kept in strict confidence.
- c. prepare and recommend for action to the Personnel Committee on rules and regulations and any changes deemed appropriate from time to time.
- d. advertise for vacant positions and determine whether the applicants meet the minimum qualifications required by the position.
- e. Certify names of eligibles to the department heads for filling of vacant positions.
- f. cooperate with the department head in providing progress of training for employees.
- g. make annual reports and other required reports to the Tribal Chairman and Council.
- h. Aid the department head in determining the number and kinds of positions needed to carry on the Tribe's business.
- l. conduct an orientation session for new employees as they are hired by the Tribe.
- j. insure that the employees are aware of the Tribal benefits, tribal policies and procedures, rules and regulations and other benefits in the department.
- k. Notify the accounting department of all appointments, promotions, demotions, changes in the employee's status affecting the employee's rate of pay and separations.

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SECTION B. PERSONNEL RECORDS

The Personnel Director shall establish and maintain a complete set of records on each employee. All files will be considered confidential which will be strictly adhere to by the Personnel Office staff.

Each employee is entitled to review the contents of their own personnel file.

The Personnel file of each employee shall be annually reviewed and material three (3) years or older, adverse to the employee shall be removed, destroyed, if, in the judgement of the Personnel Director such materials serve no actual purpose to the Tribe.

Upon termination of employment, the employee's entire personnel file shall be placed in the "inactive personnel files".

SECTION C. PERSONNEL COMMITTEE

The Personnel Committee shall review and recommend legislation for concurrence by the Tribal Council. All legislation offered to the Tribal Council shall be researched by the Committee. All proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects shall be referred to the Personnel Committee:

- a. update of the amendments to the Rosebud Sioux Tribe Personnel Ordinance.
- b. enforcement, update of and amendments to the Rosebud Sioux Tribe Personnel Ordinance.
- c. implementation, update of and amendments to a Rosebud Sioux Tribe Ordinance determining which positions are subject to a political appointment and thereby made at the discretion of the Tribal Administration.
- d. implementation, update of and amendments to a Rosebud Sioux Tribe Civil Service covering non-political position.
- e. acting as a liaison between the Tribal Administration and Tribal Council in regard to personnel matters.
- f. keeping abreast of all tribal, state, and federal laws involving the civil rights of tribal employees.
- g. giving advice and counsel to the Rosebud Sioux Tribal Council in the removal and selection of Tribal Constitutional officers whenever a vacancy occurs other than at the beginning of a new Tribal Administration.

(REFERENCE: ORDINANCE NO. 82-04)

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