


**RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

- WHEREAS,** the White Mountain Apache Tribe has adopted a personal manual setting forth conditions and regulations governing employment with the Tribe; and
- WHEREAS,** it is reported that there have been questions concerning the grievance procedures and the application of the disciplinary actions set forth in Section 13 of the Manual; and
- WHEREAS,** the Tribal Council has been advised that the Tribal employee disciplinary and grievance process could be revised to more clearly lay out the grounds for disciplinary action, the types of disciplinary action which is available, and the process for conducting a grievance; and
- WHEREAS,** revisions to the disciplinary and grievance provisions will benefit both the Tribe and its employees; and
- WHEREAS,** revised policies would also encourage the prompt resolution of disputes between supervisors and their employees; and
- WHEREAS,** the Tribal Council has reviewed revised policies governing disciplinary actions and grievances and has determined that they fulfill the objectives described above; and
- WHEREAS,** the Tribal Council has also reviewed a list of Tribal employees who have been recommended to serve on the Tribal Grievance committee.
- BE IT RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it hereby approves the revised procedures governing disciplinary actions and grievances, attached herein, to replace in its entirety Section 13 of the Tribal Personnel Manual.
- BE IT FURTHER RESOLVED** by the Tribal Council of the White Mountain Apache Tribe that it directs the Tribal Personnel Office to notify all departments and enterprises of the changes to the Tribal Personnel Manual.

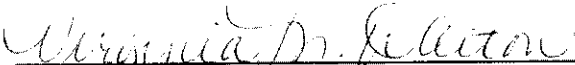
Resolution No. 02-97-032

The foregoing resolution was on February 06, 1997, duly adopted by a vote of eight for and zero against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by the White Mountain Apache Tribal Constitution, including Article IV, Sections 1 (a), (b), (i), (s), (t) and (u) of the Constitution of the Tribe, ratified by the Tribe on September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

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Chairman of the Tribal Council



Secretary of the Tribal Council

SUGGESTED NAMES FOR GRIEVANCE COMMITTEE:

1. Martha Alsenay, Cibecue Complex
2. Tina Beall, Apache Sunrise
3. Linda Burnette, Council Liaison
4. Sadie Burnette, JTPA
5. Linda Chavez, Office of Tourism
6. Jon Cooley, Tribal Game and Fish Department
7. Paul Declay, Jr., Tribal Forestry
8. Colleen Faden, Apache Enterprise
9. Leonard Fall, Tribal Police Department
10. Sharon Harris, Tribal Social Service
11. June Leslie, Youth Group Home
12. Sandra Lewis, Health Authority
13. Verna Nachu, Office of Tribal Vice-Chairman
14. George Poplin, Tribal Police Department
15. Joe Waters, Planning Department

Subject: DISCIPLINARY ACTION
AND GRIEVANCES,

Approved: *AK*

Section: 13

Tribal Chairman

DISCIPLINARY ACTION AND GRIEVANCES


Disciplinary Measures

1. It is the responsibility of all employees to observe the applicable and imposed regulations for the proper performance of their duties. If an employee's performance or conduct does not meet such standards, disciplinary measures shall be enforced.
2. Grounds for implementing disciplinary measures shall include, but are not limited to, the following:
 - a. Excessive absenteeism or tardiness.
 - b. Rough or boisterous play or pranks on the job which disrupt work or are minor safety hazards.
 - c. Violation of a safety rule or safety practice.
 - d. Failure to report to work without notification to the immediate supervisor, unless it is impossible to give such notice.
 - e. Neglect of duty or refusal to comply with a lawful instruction, unless such instruction endangers personal or public health or safety.
 - f. Using offensive language towards others on the job.
 - g. Carelessness or negligence with Tribal money or property.
 - h. Sleeping on duty.
 - i. Inducing or attempting to induce a Tribal employee to commit an unlawful act or to violate Tribal regulations, official policy, or departmental orders.

Tribal Personnel Policies
and Procedures Manual

Supersedes:
Effective:

Subject: DISCIPLINARY ACTION
AND GRIEVANCES,


Approved: 

Section: 13

Tribal Chairman

- j. Leaving work during working hours without authorization.
- k. Gambling, vending, soliciting, or collecting contributions on Tribal time or premises without authorization.
- l. Unauthorized installation or duplication of computer software taken from or placed on any Tribal computer; deliberate introduction of a computer virus into any Tribal computer or computer system, or other act of sabotage to any Tribal computer or computer system.
- m. Unpermitted interception of any personnel correspondence, voice-mail, electronic mail or other private communication of another employee.
- n. Violating personnel rules, official policies, or departmental orders.
- o. Using, or attempting to use personal or political influence in an effort to secure special consideration as a tribal employee or applicant for employment.
- p. Incompetency.
- q. Absence from work for two consecutive work days without authorization. (This will be considered automatic resignation by the employee).
- r. Theft or intentional destruction of Tribal property.
- s. Accepting or receiving gifts, commissions, money or services in exchange for awarding, promoting or considering contracts or business with the Tribe.
- t. Falsifying personnel records, job applications, leave slips, time reports, or other Tribal records.
- u. Being under the influence of and impaired by intoxicants or drugs while on

Subject: DISCIPLINARY ACTION
AND GRIEVANCES,

Approved: 

Section: 13

Tribal Chairman

- duty, except as authorized for the prescribed use of a controlled substance pursuant to a valid prescription.
- v. Fighting on the job, except in self-defense.
 - w. Any deliberate action which endangers the health or safety of the employee or others.
3. It shall be within the supervisor's discretion to impose such disciplinary measures as are appropriate, based upon the severity of the conduct or nature of the unsatisfactory performance. Disciplinary measures may include but are not limited to:
- a. Verbal Warning
 - b. Written Reprimand
 - c. Suspension Without Pay
 - d. Demotion and/or Transfer within Department or Enterprise
 - e. Involuntary Termination (Dismissal)
4. It is recommended, but not required, that immediate dismissal be imposed only for serious offenses. It is recommended, but not required, that supervisors implement warnings and other corrective steps for less serious offenses. If interim measures, such as warnings and other corrective steps are not successful in correcting less serious offenses, suspension without pay, demotion, transfer or termination of employment would be appropriate.
5. A copy of each written disciplinary measure will be placed in the employee's personnel folder and given to the employee who shall sign an acknowledgment of receipt thereof.

Subject: DISCIPLINARY ACTION
AND GRIEVANCES,

Approved: *AS*

Section: 13

Tribal Chairman

GRIEVANCE PROCEDURES

Purpose and Scope

The Grievance Procedures are available to all Tribal employees except those who are exempted pursuant to Section Three of the Personnel Policies and Procedures and those employees whose department or enterprise have their own duly adopted grievance procedures. They are intended to provide an efficient and fair opportunity to resolve work-related problems and disputes. These procedures are the only means by which an employee may present a Grievance arising from employment with the Tribe. Each employee who wishes to present a Grievance must strictly adhere to each applicable provision of the Procedures, including the precise time limits which govern the process.

Definitions

A. "Committee" or "Grievance Committee" means the committee formed to conduct Grievance Hearings. The Tribal Council shall select fifteen Committee members to serve at Grievance Hearings. For each hearing, five members shall be selected at random. A minimum of three Committee members, from the five selected will constitute a quorum for that hearing. No Committee member may participate in a Grievance Hearing concerning a Grievance which involves that member.

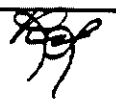
B. "Discrimination" means an act by Supervisory Personnel constituting grounds for a Grievance, as defined below, which occurred because of the employee's race, religion, gender or national origin. Preference granted to members of the White Mountain Apache Tribe, spouses of members of the Tribe, and to members of other Indian tribes for purposes of hiring, training, promotion and retention of employment does not constitute Discrimination.

C. "Grievance" means a claim by an employee that an act or omission by Supervisory Personnel has improperly deprived the employee of rights, benefits, privileges or interests secured by his or her employment. For probationary employees the sole basis for a Grievance shall be an allegation of Discrimination.

Tribal Personnel Policies
and Procedures Manual

Supersedes:
Effective:

Subject: DISCIPLINARY ACTION
AND GRIEVANCES,

Approved: 

Section: 13

Tribal Chairman

D. "Grievance Hearing" means the hearing conducted by the Grievance Committee pursuant to these Procedures. The hearing shall not be open to the public.

E. "Supervisory Personnel" means the person or persons who supervise the employee who has submitted a Grievance.

F. "Statement of Grievance" means a detailed description of a Grievance, which must include the following information:

i) The specific act or omission by Supervisory Personnel which the employee believes is the basis of his or her Grievance.

ii) A description of how such act or omission has improperly deprived the employee of rights, benefits, privileges or interests secured by his or her employment.

iii) The relief sought.

Grievance Steps

Any employee filing a Grievance, if he or she desires, will be permitted to engage legal assistance by an attorney or lay advocate authorized and licensed to appear in Tribal Court and practice law within the Fort Apache Indian Reservation, and no other person. Documents filed pursuant to the following steps shall be held in the custody of the Personnel Office and made available for inspection by the parties to the dispute.

Each step which follows is intended to resolve the dispute or problem. It is only if a party to a dispute is dissatisfied with outcome of the step that the party may institute an appeal pursuant to the terms of the subsequent step. Parties are not permitted to skip any step before going onto the next step. The appeal to any subsequent step does not permit the complainant to supplement the Statement of Grievance with additional Grievances. The appeal will be strictly limited to the specific factual grounds which were the basis of the Grievance in Step One.

Tribal Personnel Policies
and Procedures Manual

Supersedes:
Effective:

Subject: DISCIPLINARY ACTION
AND GRIEVANCES,

Approved: *RF*

Section: 13

Tribal Chairman

Step One--Appeal to Immediate Supervisor

An employee having a Grievance shall present a written Statement of Grievance to his or her immediate supervisor within five working days of the incident which is the basis for the Grievance. Within five working days of the receipt of the Statement of Grievance, the immediate supervisor shall issue a written decision.

Step Two--Appeal to Tribal Operating Official

Within five working days of the receipt of the decision in Step One, or after the decision is due, the employee may present the written Statement of Grievance to the appropriate Tribal Operating Official. Within five working days of the receipt of the Statement of Grievance, the Tribal Operating Official shall issue a written decision.

Step Three--Appeal to Grievance Committee

Within five working days of the receipt of the decision in Step Two, or after the decision is due, the employee may present the written Statement of Grievance to the Personnel Officer. The Personnel Officer shall review the Statement of Grievance and all written documentation and if it is in compliance with these procedures the Officer shall within twelve working days schedule a hearing on the matter before the Grievance Committee. The Committee may conduct the hearing as it deems fair and appropriate. Formal rules governing the proceedings or presentation of evidence will not be required. The Committee may request information, documentation and hear testimony. The Committee may exclude non-testifying witnesses from the Hearing. The hearing shall be open only to both parties, except that after the presentation of all testimony and other evidence, the Committee may meet privately to discuss its conclusions. The Committee shall reach its conclusions by a majority vote. Tie votes affirm the decision rendered in Step Two.

Step Four--Grievance Committee Recommendation

Within three working days of the Grievance Hearing, the Committee shall deliver its recommendation to the Tribal Chairman who shall issue a written decision within ten working days of receipt of the recommendation by the Grievance Committee. Except as provided in Step Five, the decision of the Tribal Chairman shall be final.

Tribal Personnel Policies
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Supersedes:
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Subject: DISCIPLINARY ACTION
AND GRIEVANCES,

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Section: 13

Tribal Chairman

Step Five--Appeal to Tribal Council

In cases of alleged Discrimination only, within ten working days of receipt of the written decision of the Tribal Chairman, the employee may deliver the written Statement of Grievance to the Tribal Council.

The appeal shall be placed on the agenda for the next Tribal Council meeting and the Council may choose to decide the appeal at that meeting, schedule it for decision at the next meeting (with or without an appearance by the employee) or schedule a special meeting within thirty days.

The decision of the Tribal Council shall be final.