

## **Missanabie Cree First Nation**



### **Hiring and Employment Policy**

**Approved by Chief and Council**

**Motion #22.07.19.04**

**Date: July 19, 2022**

**Amended September 28, 2022**

**Motion #22.09.28.08**

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## **Dates of Acceptance and Amendment**

This MCFN Covid-19 Policy has been duly accepted by a quorum of the Missanabie Cree First Nation Council, this, 19th Day, of July 2022, by Motion# 22.07.19.04.

Amended September 28, 2022 Motion #22.09.28.08.

## **Purpose**

The purpose of this policy is to promote and maintain positive and harmonious relationships among the staff of the Missanabie Cree First Nation and to ensure a transparent and equitable hiring process.

It is intended to guide and organize staff in their daily interactions with each other and with their employer.

Personnel policies contained in this document are based on standards consistent with the Canada Labour Code, the Ontario provincial laws of general application that do not conflict with the Canada Labour Code, and the Occupational Health and Safety Act.

## 1.0 Definitions

**Applicant** - a person who applies for a post of employment.

**Canadian Criminal Record Check** - (Clearance Letter) is a document issued by the local Police Service, produced on secured paper that indicates an applicant has no criminal convictions in the National Repository of Criminal Records maintained by the RCMP.

**Conflict of Interest (Hiring Committee)** - any situation in which a Hiring Committee member has a personal or private interest sufficient to influence or appear to influence the required objectivity and proper exercise of his/her responsibilities and duties as a Hiring Committee member.

For example, a conflict of interest may exist if the employment applicant is an immediate family member of the Hiring Committee member.

**Conflict of Interest (General)**- any situation in which an individual has a personal or private interest sufficient to influence or appear to influence the required objectivity and proper exercise of his/her responsibilities and duties.

**Common-law Partner** - means a person who has been cohabiting with an individual in a relationship for at least one year.

**Community Member** - a citizen of the Missanabie Cree First Nation.

**CPIC** - a term commonly used to denote a "Canadian Criminal Record Check" and derived from the acronym of the Canadian Police Information Centre.

**Family Member** means;

1. the employee's spouse or common-law partner;
2. the employee's father and mother and the spouse or common-law partner of the father or mother;
  - the employee's foster father and foster mother
3. the employee's children and the children, grandchildren, brothers and sisters of the employee's spouse or common-law partner;
  - the spouse of common law partner of the employee's children
  - a child to whom the employee or the employee's spouse or common-law spouse acted as foster parents, under the laws in force in each province
4. the employee's grandchildren;
5. the employee's brothers and sisters and spouse or common-law partner of the employee's brothers and sisters;
  - the employee's nieces and nephews and the spouse or common-law partner of the employee's nieces and nephews
  - the employee's aunts and uncles and the spouse or common-law partner of the employee's aunts and uncles
6. the grandfather and grandmother of the employee;
7. the father and mother of the spouse or common-law partner of the employee and the spouse or common-law partner of the father or mother;
8. any relative of the employee who resides permanently with the employee or with whom the employee permanently resides;
9. a person under the guardianship or care of the employee or the employee's spouse or common-law partner;

10. a person who is entirely or substantially dependent on the employee or the employee's spouse or common-law partner for ongoing care and attention.

**Hiring Committee** - persons appointed by the Band Manager to screen, interview, and recommend employment applicants for employment positions within the Missanabie Cree First Nation.

**Immediate Family** - for the purpose of this policy, an immediate family member includes mother, father, son, daughter, brother, sister, nephew, niece, aunt, uncle, grandparent, grandchildren, spouse, mother-in-law, brother-in-law, father-in-law, and sister-in-law.

**Leave of Absence** - means authorized absence from duty by an employee during regular or normal hours as outlined for that specific employee.

**Neutral Member** - community member who is not a member of the immediate family of the griever

**Partner** - means a person who is with an individual in a relationship.

**Personal Harassment** - consists of offensive comments or actions intended to intimidate, demean, humiliate, or coerce.

**Racial or Ethnic Harassment** - includes insulting gestures, unwelcome remarks and jokes about a person's racial background, colour, place of birth, or ancestry.

**Sexual Harassment** - is repeated sexual comments or physical contact that is objectionable to the recipient of such comments or gestures. It includes demands for sexual favours that become a term of condition of employment, display of offensive pictures, demeaning jokes, or unwanted physical contact within the office setting or carry-over outside of the office.

**Sharing Circle Mediation** - a traditional sharing circle commonly facilitated by a community elder to resolve an issue through a respectful process of allowing each speaker to speak in turn without interruption.

**Vulnerable Persons** - are people who, because of their age, disability, or other circumstance, are more vulnerable than others.

**Vulnerable Sector Check (VSC)** - a check to see if a person has a record suspension (pardon) for sexual offences.

**Working Day** - a day from an employee's work week, usually from Monday to Friday, excluding Saturday, Sunday, and statutory and other paid holidays.

**Workplace Culture** - is a collection of attitudes, beliefs, and behaviours that make up the regular atmosphere in a work environment. Healthy workplace cultures align employee behaviours and policies and considers the well-being of individuals. The culture determines how well a person fits into their new job environment and their ability to build professional relationships with others.

**Workplace Harassment** - means being subject to intimidating, hurtful, or malicious comments or conduct by a co-worker, supervisor, or subordinate. Harassment is defined by the Human Right Code as "a course of vexatious comment or conduct that is known or ought to be known as unwelcome."

**Quorum** - a vote of simple majority of the MCFN Chief and Council.



## **2.0 Recruitment**

- a) The Missanabie Cree First Nation is committed to the training and professional development of our people and in accordance with the strategic direction and the vision of the Missanabie Cree First Nation.
- b) Every effort will be made to recruit qualified Missanabie Cree members and Indigenous candidates for all employment positions that become available. In addition to academic qualifications and professional background, life experience will also be considered in each hiring.
- c) Preference will be first given to:
  - 1 - Missanabie Cree First Nation Members
  - 2 - Missanabie Cree Community Members
  - 3 - First Nation, Inuit, and Metis applicants
  - 4 – Mainstream applicants

## **3.0 Employment Postings**

- a) All employment postings shall clearly list the required qualifications as well as the duties and responsibilities for the employment position. In addition, the employment posting shall indicate that all applicants provide three (3) work-related references.
- b) All employment postings will include a requirement for a CPIC for all employees.
- c) All employment postings for sensitive positions such as working with children and families, or in the financial sector, must include a requirement for a CPIC with VSC.
- d) All employment postings will be posted until filled.
- e) Employment postings will be widely advertised through approved communication methods such as Facebook, LinkedIn, Sault Career Centre, indeed, local Colleges and University Alumni etc.

## **4.0 Hiring Process**

### **4.1 The Hiring Committee**

- a) The Hiring Committee shall consist of any of the three participants from the following list:
  - Band Manager or designate

- Administrative staff members with knowledge of the position applied/ or alternate
  - Other organizations as necessary may be utilized.
- b) If at any time, a committee member finds they are in a conflict of interest, they must fully disclose the conflict to Hiring Committee (Please see conflict of interest policy).
  - c) If the Committee deems that a conflict of interest exists, the member in question will withdraw from the Committee. The hiring process will be suspended until such time as an alternate Committee member is appointed to the Hiring Committee.

## **4.2 Pre-screening**

- a) The Hiring Committee or Band Administrator shall pre-screen all applicants by reviewing resumes to determine the short list of candidates.
  - i. Each applicant will be scored based on education, experience, being a Missanabie Cree First Nation Community Member and other qualifications as determined by the job posting. Priority will be given to Missanabie Cree First Nation Members, Community Members and First Nation, Inuit and Metis applicants

## **4.3 Interviews**

- a) Successful pre-screened candidates shall be given the opportunity to be interviewed by the Hiring Committee.
- b) All candidates shall be interviewed on the same day if possible.
- c) All applicants shall have the same interview questions.
- d) Interview questions can be either verbal, written, or a combination of both.
- e) Workplace culture and question scoring are the deciding factors in the hiring process.

## **4.4 Confirmation of Employment**

- a) The Hiring Committee shall confer and agree on the choice of the successful candidate.
- b) The Band Administrator or designate, will submit the successful candidate recommendation to Chief and Council for review and approval.
- c) The personal and work references of the successful candidate shall be checked as part of the regular hiring process.
- d) Once reference checks are completed and reviewed by the Band Administrator; the successful candidate shall be notified by the Band administrator or designate.

- e) All potential hires require a CPIC prior to offering the employment contract to the successful candidate. (Changed to correspond with section 3b)
- f) All potential hires for sensitive positions such as working with children and families, or in the financial sector requires a CPIC with VSC prior to offering the employment contract to the successful candidate. (Changed to correspond with section 3c)

#### **4.5 Temporary Positions and Assignments**

- a) The Band Administrator may select staff to fill temporary positions for a period of 12 weeks or less. If such a position is reclassified to full-time or permanent, an open competition will be held and posted.
- b) Employees who are required to perform the duties of a different position including their own duties on a temporary basis for a period of at least 10 consecutive working days (2 weeks), will be paid at the higher wage level for that position. An agreement will be signed with the Band Administrator and the employee detailing wages and the start date.
- c) Chief and Council will be advised by the Band Administration of all temporary positions and assignments.

#### **4.6 Orientation**

- a) New employees shall meet with the Band Administrator or designate to review the orientation package and discuss any questions they may have.
- b) The orientation package shall be provided to the new employee on their first day.

The orientation package shall include the following;

- i. Employee Handbook
  - Copy of the Hiring and Employment Policy
  - Copy of the Financial Policy & Procedures
  - Copy of the Communication Policy
  - Oath of confidentiality
  - Code of ethics
  - Workplace Harassment and Task Force Policy
- ii. Staff directory
- iii. Job description
- iv. Employment contract
- v. Employee computer contract
- vi. Employee information sheet
- vii. Tax forms

The employee will complete and sign the following documents during orientation;

- i. Job description
  - ii. Employment contract
  - iii. Oath of confidentiality
  - iv. Code of ethics
  - v. Workplace Harassment and Task Force Policy contract
  - vi. Employee computer contract
  - vii. Employee information sheet
  - viii. Tax forms
- c) All new staff are required to provide a bio for the upcoming Bear Fax newsletter and will also be posted to the official Missanabie Cree First Nation website with their picture.
  - d) An Introductory email will be sent by the employee's direct supervisor to all staff on the start date introducing the new employee and providing contact information.
  - e) The employee will be introduced to their workspace and will be provided a computer or laptop.
  - f) All new staff are required to participate and complete the Workplace Violence and Harassment Training within three (3) months of employment as per Bill C65.

#### **4.7 Probationary Period**

- a) All employees shall be on probation for the first three (3) months of employment or in the commencement of a new position within the First Nation.
- b) Prior to the completion of the probationary period, the employee will be evaluated by the Band Administrator and their supervisor (if applicable). The Band Administrator will review the evaluation with the employee.
- c) If an employee does not meet the requirements of the position, the Band Administrator may:
  - Terminate the employee at the end of their probationary period. The Band Administrator shall provide the employee with either a written notice of termination, termination pay, or a combination of both (as per the length of notice the employee is entitled to receive), or;
  - Work with the employee in the development of a training plan to address deficiencies identified during the evaluation. Re-evaluation is to take place within 3 months.

- d) Employee probationary performance evaluations shall be considered confidential and kept in a secure location. Each employee will receive a personal copy.

#### **4.8 Transfers and Promotions**

- a) Wherever possible, current staff members may be promoted on the advisement of the Band Administrator.
- b) Staff promotions will be based on individuals through evaluation who have demonstrated the capabilities and educational requirements for the position/role. Promotions are subject to program funding criteria.

### **5.0 Media Communication**

No employee shall speak to any group or member of the media on behalf of the Missanabie Cree First Nation unless authorized by Chief and Council and/or the Band Administrator.

### **6.0 Payroll**

#### **6.1 Salary/Wage Range**

- a) In the setting of salary/wage range of pay for a particular position, as well as designating a salary for a specific employee, the following factors may be considered: which factors?
- b) All salaries shall be paid according to the terms and conditions of the employment contract. Annual salaries for employees shall be paid at the rate approved by the Band Administrator, according to the wage scale grid.
- c) Chief and Council will approve a salary/wage range for each position which will usually approximate salary levels for similar positions in the area. The salary/wage range shall be reviewed on an annual basis by the Band Administrator.
- d) The starting salary/wage of new employees, including students and contract employees, will be based upon the budget appropriations set by the program funding criteria for each position and similar positions in the area. The set wage for the position will be stated in the employee's offer of employment. C contradicts d
- e) When attending conferences or events, if an employee has been offered an honorarium the individual must choose to either accept the honoraria and take the day off without pay or consider it part of the workday and submit the honoraria to Missanabie Cree Band Office for "Check with payroll clerk"

#### **6.2 Pay Increases**

- a) Current staff members may be awarded a raise of pay on the advisement of the Band Administrator.

- b) Pay increases will be based on individuals through evaluation who have demonstrated the capabilities and educational requirements for the position/role. Pay increases are subject to program funding criteria.
- c) Employees' salaries will be reviewed on an annual basis and will be determined based on staff performance, evaluation reviews, as well as available funding.

### **6.3 Employment Insurance Standard Practice**

- a) Based on the Employers' Guide to Payroll Deductions, MCFN must withhold Employment Insurance (E.I.) Premiums from each dollar of insurable earnings up to the yearly maximum for the year. The maximum annual insurable earnings fluctuate annually.
- b) Insurable employment includes most employment in Canada under a contract of service (employee-employer relationship). There is no age limit for deducting E.I. premiums.

### **6.4 Federal/Provincial Income Tax Standard Practice**

Based on the Federal/Provincial guidelines set out annually, Missanabie Cree First Nation must withhold Income Tax every pay period for remittance. This does not apply to all Tax-Exempt employees who are registered with the Indian Registrar.

### **6.5 Vacation Pay**

- a) Vacation pay for permanent full-time positions may be paid out with each pay or accumulated at the rate as per their employment contract.
- b) Vacation pay for contract positions will be paid out with each pay at the rate as per their employment contract.

### **6.6 Canada Pension Plan Standard Practice**

- a) Based on the Employers Guide to Payroll Deductions, MCFN must deduct CPP contributions from an employee's remuneration if that employee:
  - is 18 or older, but younger than 70;
  - is in pensionable employment during the year;
  - does not receive a CPP or Quebec Pension Plan (QPP).
- b) The Band will adjust rates annually or as required, when amendments are made to the Canada Pension Plan schedules.

### **6.7 Workplace Safety and Insurance Board Standard Practice**

The Band is obligated to provide WSIB coverage for all its employees.

## **7.0 Personnel Files Standard Practice**

- a) Personnel files will be maintained on a current basis for all employees. Employees shall have access to their personnel files, in the presence of the Band Administrator.
- b) Employees will receive copies of their written employment descriptions, any subsequent additions or alterations to their employment description, the signed Employee Code of Ethics contract, and other relevant information.
- c) Post employment, all employee's personnel files will be kept in the Band Administrator's office under lock and key for three (3) years after which it will be removed.

## **8.0 Employee Performance Evaluation**

- a) Employees shall receive an annual performance evaluation. Evaluations will be conducted for new employees nearing the end of their probationary period. Evaluations may also be conducted for employees whose previous evaluations are below satisfactory level.
- b) Performance evaluations will:
  - Provide formal feedback to the employees with specific suggestions on how to improve performance, efficiency, etc.
  - Help the employee to self-evaluate giving both positive and constructive feedback
  - Improve understanding and communications between management and staff
  - Provide an opportunity to set employee's work plans for the coming year
  - Provide an opportunity to discuss professional training and development
  - workshops/options for the employees.
  - Be the basis for salary reviews
  - Form the basis of written employment references for when employees leave employment with Missanabie Cree First Nation.
- c) An employee's performance will be evaluated based on their employment description, work plan, employee attitudes towards their employment, and their adherence to the codes and policies of MCFN.
- d) Employees may also be asked at the time of evaluation to make recommendations on how improvements can be made in their work environment/department. The Band Administrator and or supervisor, will use the Performance Evaluation form (See Appendix 1). A written copy signed by the employee will be kept in his/her personnel file.
- e) Annual evaluations shall take place prior to the end of the fiscal year. Should the employee continue, the employee's work plan for the coming year can be decided upon at that time. Any revisions to the employee's work plan or employment description during the year should be discussed with the employee, provided in writing, and a signed copy shall be kept in the employee's personnel file.

- f) At the time of assessment, the Band Administrator and or supervisor shall discuss the performance assessment with the employee and outline any remedial action if required.
- g) In the event of a disagreement between the employee and the Band Administrator and or supervisor regarding the performance evaluation review, the employee shall have the right to comment in dispute within the review.
- h) Chief and Council will be responsible for the annual evaluation of the Band Administrator.

## **9.0 Staff Professional Development**

- a) Chief and Council and the Band Administrator will encourage employees who wish to pursue studies or take short courses (directly related to their position with the First Nation).
- b) The Band Administrator and supervisors will provide opportunities for the professional development of MCFN employees by offering internal staff training and encouraging staff participation in external training opportunities, workshops, seminars, and conferences related to their position. Apart from mandatory funding requirements, employees are encouraged to attend two (2) workshops, conferences, seminars, etc., per year subject to funding.
- c) Prior to submitting an application to attend all external training opportunities, workshops, seminars, and conferences related to their position, employees must submit a request for approval to the Band Administrator/supervisor detailing how the training will benefit their development as well as how it relates to their position.
- d) Upon returning from their training opportunity, employees must submit a summary report to the Band Administrator/supervisor.
- e) Educational leaves of absence without pay may be granted by Chief and Council for a maximum of one (1) year. Such leave must be applied for as detailed in section (Insert section here) on Educational Leave.

## **10.0 Leave of Absence Requests**

All leave of absence requests must be approved by the Band Administrator or designate.

Educational leaves of absence without pay may be granted by Chief and Council for a maximum of one (1) year.

Employees will be able to return to their former positions and/or the equivalent position upon the successful completion of the course of study subject to funding.

This policy follows The Canada Labour Code with the following unpaid and paid leaves:

- Maternity-related reassignment and leave
- Maternity leave and parental leave
- Compassionate care leave
- Leave related to critical illness
- Leave related to death or disappearance of a child



- Personal leave
- Leave for victims of family violence
- Leave for traditional Indigenous (Aboriginal) practices
- Leave for court or jury duty
- Bereavement leave
- Medical leave
- Leave of absence for members of the reserve force (see the Canada Labour Code 247.5)

If the employee applied to take a leave, are on leave, or has taken a leave, Missanabie Cree First Nation shall not take any of the following actions against the employee:

- dismiss
- suspend
- lay off
- demote, or
- discipline

## **10.1 Maternity-related reassignment and leave (paid and unpaid)**

Employees of Missanabie Cree First Nation who are pregnant or nursing, can ask their supervisor to:

- a) modify their job, or
- b) be reassigned to another job if continuing to do their present work poses a risk to the following:
  - their health
  - the health of the unborn child, or
  - the health of the child

This request must include a certificate from a healthcare practitioner. The certificate must indicate:

- how long the risk will likely last, and
- what activities/conditions that should avoided

Missanabie Cree First Nation must consult with the employee when examining their request. Where reasonably practicable, Missanabie Cree First Nation must modify the job functions or reassign the employee to another position.

Maternity-related reassignment is paid and maternity-related leave is unpaid.

## **10.2 Maternity leave and parental leave (unpaid)**

- a) Pregnant employees are entitled to up to 17 weeks of maternity leave. This leave can be taken any time during the period that:
  - begins 13 weeks before the expected date of birth, and
  - ends 17 weeks after the actual birth date

- b) The pregnant employee must provide Missanabie Cree First Nation with a certificate from a health care practitioner confirming the pregnancy.
- c) Employee's must also give Missanabie Cree First Nation written notice at least 4 weeks before starting the leave. This notice must advise Missanabie Cree First Nation of the length of the leave.
- d) If the child was not born during the 17 weeks of maternity leave, the maternity leave is extended until the date of the birth.
- e) Pregnant employees are not obligated to take maternity leave unless Missanabie Cree First Nation can show that the employee is unable to perform an essential function of the job. Maternity leave is unpaid.
- f) As a natural or adoptive parent, employees are eligible for up to 63 weeks of parental leave. If both parents work for Missanabie Cree First Nation, they may share parental leave in order to access an additional 8 weeks of leave. Parents who share the parental leave have access to 71 weeks of parental leave. Employees can take this leave any time during the following:
  - the 78-week period starting the day the child is born, or
  - the day your child comes into the employee's care
- g) Employees must give Missanabie Cree First Nation written notice at least 4 weeks before starting the leave. This notice must advise Missanabie Cree First Nation of the length of the leave.
- h) Parental leave is unpaid. Written notice and documentation is required. An employee can interrupt this leave for other leaves. When returning to work following maternity and parental leave, Missanabie Cree First Nation must reinstate the employee.

### **10.3 Compassionate care leave (unpaid)**

Employees can take up to 28 weeks of compassionate care leave within a 52-week period to look after a family member who has a serious medical condition with a significant risk of death.

The leave begins during one of the following weeks, whichever occurs first:

- the week the health care practitioner signs the medical certificate
- the week the health care practitioner examines the gravely ill family member, or
- the week the family member becomes gravely ill, if the health care practitioner can determine that date (for example, the date of the test results)

The leave ends when:

- the 28 weeks of compassionate care are complete
- the gravely ill family member dies or no longer requires care or support, or
- the 52-week period expires

Two or more employees can share compassionate care leave when looking after the same family member. However, the total amount of leave taken by all cannot be more than 28 weeks within the 52-week period.

An employee can consecutively take the leave related to critical illness to care for the same person if eligible. However, the employee cannot take compassionate care leave if 1 or more employees are taking the leave related to critical illness in respect of the same person.

Compassionate care leave is unpaid. Written notice and documentation are required. An employee can interrupt this leave for other leaves. When an employee returns to work, Missanabie Cree First Nation must reinstate the employee

#### **10.4 Leave related to critical illness**

If you are an employee who is a family member of a critically ill child or adult, the employee is eligible to take:

- up to 37 weeks of leave in a 52-week period to provide care or support to the child under 18 years of age, and
- up to 17 weeks of leave in a 52-week period to provide care or support to the adult

The leave can start on the first day of the week the medical certificate is issued or the day from which the health care practitioner certifies that the child or adult is critically ill. If the child or adult dies while on leave, the leave ends on the last day of that week.

If 2 or more children are critically ill, the employee is eligible for separate leaves of 37 weeks with respect to each affected child.

Critical illness leave is unpaid. Written notice and documentation is required. An employee can interrupt this leave for other leaves. When an employee returns to work, Missanabie Cree First Nation must reinstate the employee.

#### **10.5 Leave related to death or disappearance of a child (unpaid)**

If you are an employee whose child is under 25 years of age and has disappeared or died as a result of a probable crime under the Criminal Code, you are eligible to take up to:

- 104 weeks of leave in the case of a missing child, starting on the day the disappearance occurs, and
- 104 weeks of leave if the child has died, starting on the day the death occurs

To take this leave, the employee must be a person who, in law:

- is a parent of the child
- has custody of the child or, in Quebec, parental authority over the child
- is the guardian of the child or, in Quebec, the tutor or curator to the person of the child
- is a person who has *decision-making responsibility*, as defined in the Divorce Act, in respect of the child, or
- is the person with whom the child is placed for the purposes of adoption under the laws governing adoption in the province in which the person resides

The employee is not eligible for this leave if:

- the child was 14 years of age or older at the time of the crime and it is probable, considering the circumstances, that the child was a party to the crime, or
- you are charged with the crime

Leave related to death or disappearance of a child is unpaid.

## **10.6 Access to the leave – Death of a child**

In order for an employee to qualify for this 104-week leave, it will be necessary to establish that the child has died, and that death was the result of a probable crime. Although this normally requires finding the child's body, there may be cases where the child's death and the criminal nature of that death are clear, despite the inability to find or identify the child's remains.

## **10.7 Period when leave may be taken**

### **10.7.1 Death of a child**

This leave starts on the day the child is found deceased and ends 104 weeks after that day (assuming that the death was the result of a probable crime). If a child is found to have died as a result of a probable crime more than 104 weeks after the child's disappearance (after the employee's entitlement to the leave, related to the disappearance, has ended), the employee is entitled to the 104 weeks leave relating to the death of a child.

However, if the child's body is found after they already establish the death and the employee has taken a leave related to the death of a child, the employee is not entitled to a new leave.

### **10.7.2 Disappearance of child**

If a child who disappeared is found, then the leave of absence ends 14 days after the day on which the child is found. However, if the child is found during the 104-week period, the leave must end no later than the end of the 104-week period.

Written notice and documentation is required when changing and combining the length of the leave when 2 or more children are missing or murdered. An employee can interrupt this leave for other leaves. When an employee returns to work, Missanabie Cree First Nation must reinstate the employee.

## **10.8 Personal leave (paid and unpaid)**

Employees of Missanabie Cree First Nation are entitled to up to 15 days of personal leave per calendar year to:

- treat an injury or illness
- take care of health obligations for any member of the family or care for them
- take care of obligations related to the education of any family member under age 18
- manage any urgent situation that concerns the employee or a family member, or
- manage any other situation prescribed by regulation

Accumulation will begin after their full 3-month probationary period has ended.

This leave can be taken over more than 1 period, however Missanabie Cree First Nation may require that each period be at least 1 day.

Missanabie Cree First Nation may request that you provide supporting documents concerning the reasons for the leave. Missanabie Cree First Nation may request this up to 15 days after your return to work. Supporting documents must be provided if it is possible to obtain and provide them.

Paid personal leave

### **10.9 Leave for victims of family violence (paid and unpaid)**

- a) Employees are entitled to up to 10 days of leave per calendar year if they are:
  - a victim of family violence, or
  - the parent of a child who is a victim of family violence
- b) Up to 10 days of leave can be taken to engage in activities, such as:
  - to seek medical attention for the employee or the employee's child in respect of a physical or psychological injury or disability
  - to obtain services from an organization which provides services to victims of family violence
  - to obtain psychological or other professional counselling
  - to relocate temporarily or permanently
  - to seek legal or law enforcement assistance or to prepare for or participate in any civil or criminal legal proceeding, or
  - to take any measure prescribed by regulation
- c) An employee can take this leave in more than 1 period, however, Missanabie Cree First Nation may require that each period be at least 1 day.
- d) To take this leave, the employee shall provide Missanabie Cree First Nation with written notice indicating the duration of the leave as soon as possible. If there is a change in the length of the leave, the employee must provide Missanabie Cree First Nation with written notice. Missanabie Cree First Nation may request, within 15 days of returning to work, the employee must provide supporting documents concerning the reasons for the leave. The employee must provide supporting documents if it is possible to obtain and provide them.
- e) The employee is not eligible for this leave if they are accused of an infraction related to the act of family violence. The employee is also not eligible for this leave if the circumstances allow one to believe it is probable that the employee committed the act of violence.
- f) Paid leave for victims of family violence Meaning of "child" and "parent"

### **10.10 Leave for traditional Indigenous practices (paid and unpaid)**

#### **"Identified in the federal Labour Code as Traditional Aboriginal Practices "**

In this section, Aboriginal means Indian, Inuit or Métis. If an Aboriginal employee with at least 3 months of continuous employment requests leave for traditional Aboriginal practices, they are entitled to take up to five (5) days of leave per calendar year, 3 of which will be paid. Aboriginal employees may take this leave in order to take part in traditional Aboriginal practices including:

- fishing
- hunting

- harvesting
- Traditional Indigenous Practices

An employee can take this leave over more than 1 period. Missanabie Cree First Nation may request that the employee provides documentation demonstrating that the employee is Aboriginal. Missanabie Cree First Nation may request this up to 15 days after their return to work. The employee must provide supporting documents if it is possible to obtain and provide them.

### **10.11 Leave for court or jury duty (unpaid)**

Employees are entitled to unpaid leave for the time necessary to participate in a judicial proceeding as a:

- witness
- juror, or
- candidate in a jury selection process

The employee must provide Missanabie Cree First Nation written notice. In addition, Missanabie Cree First Nation may require supporting documents.

### **10.12 Bereavement leave (paid and unpaid)**

Employees are entitled to 5 days of bereavement leave in the event of a death of an immediate family member. The employee can take this leave over more than 1 period starting the day on which the death occurs and ending 6 weeks after the date of the:

- funeral
- the burial, or
- the memorial service of that immediate family member

The employee must provide Missanabie Cree First Nation with written notice as soon as possible, indicating the start date and length of the leave. At your request, Missanabie Cree First Nation may extend the period during which you take the leave of absence. Missanabie Cree First Nation must make this extension in writing.

Paid bereavement leave

### **10.13 Medical leave (unpaid) and leave for work-related illness and injury (unpaid)**

Entitlement to medical leave protection of up to:

- 17 weeks for:
  - illness or injury
  - organ or tissue donation, or
  - attending medical appointments
- 16 weeks:
  - for quarantining

If a medical leave of absence is 3 days or longer, Missanabie Cree First Nation may require that you provide a certificate issued by a health care practitioner. If requested, the employee must provide one, in writing, within 15 business days after returning to work. This certificate must certify that the employee was unable to work for the time they were absent from work.

**Medical certificates:** On a temporary basis (ending on September 25, 2021), employees are not required to provide a medical certificate to take this leave. This is in response to the COVID-19 emergency, as of **October 14, 2020**.

However, if requested, the employee must provide Missanabie Cree First Nation with a written declaration attesting to the fact that they were unable to work during their absence from work.

After returning to work, Missanabie Cree First Nation may reassign the employee to another position if they are unable to perform any of their previous job functions.

Medical leave is unpaid.

Leave for work-related illness and injury (unpaid). The employee can interrupt other leaves to take medical leave and work-related illness and injury leave. Missanabie Cree First Nation can offer the employee long-term disability plans.

## **11.0 Disciplinary Policies & Procedures**

### **Introduction**

The concept of discipline implies a respect on the part of all employees in regard to the goals and expectations of the Missanabie Cree First Nation. These disciplinary policies have been developed as a guide for the Band Administrator/supervisors and employees to assist and promote proper order, efficient management, and acceptable conduct of all employees of the Missanabie Cree First Nation.

The Band Administrator/supervisor will communicate openly with an employee regarding any breach of conduct or unsatisfactory work performance and where possible to encourage an employee to voluntarily correct their behaviour.

It is not feasible to prescribe specific procedures of disciplinary action for every possible offence. Each case will be considered individually. When an incident occurs which, the employer believes warrants disciplinary action, the employer shall investigate the circumstances. During this investigation the employee will be given the opportunity to provide their view of the incident.

## **12.0 The Disciplinary Process**

For the purpose of maintaining staff discipline, there will be four steps taken in disciplinary action namely, verbal reprimand, written reprimand, suspension, and termination.

This process will be followed by the employer to the extent possible in the circumstances and subject to the right of the employer to initiate the disciplinary process at any step, up to and including termination.

### **12.1 Verbal Reprimand**

The Band Administrator and/or supervisor (where applicable) will give the employee a verbal reprimand for what is considered minor infractions and emphasize the need for improvement.

A plan for corrective behaviour will be jointly agreed upon, if necessary, to assist in the necessary improvement.

The Band Administrator and/or supervisor will write up a report documenting the time, date, infraction, and plan for corrective behaviour. This document will be signed by the parties and placed in the employee's personnel file located in the Band Administrator's office under lock and key for two (2) years after which it will be removed.

### **12.2 Written Reprimand**

The Band Administrator/supervisor will give an employee a written reprimand if the circumstances warrant the same or in cases where a verbal reprimand has been given and has not produced the desired effect.

All written reprimands will be signed by both the employee and the Band Administrator/supervisor and will set out a plan for improvement. The written reprimand will be placed in the employee's personnel file for two (2) years after which time it will be removed.

### **12.3 Suspension**

The Band Administrator will provide written notice of the suspension which will state the effective date, the duration of the suspension, and the reason for the suspension.

An employee suspended without pay will not be eligible to use accumulated days, holiday pay or lieu time to cover the term of suspension.

### **12.4 Termination**

In the event that the employer deems it necessary to terminate an employee with "just cause" the employee will be notified in writing by the Band Administrator. The written notice of termination shall include the reason(s) for the termination as well as the effective date.

All termination of employment on the basis of "just cause" must be approved by Chief and Council. An employee terminated with "just cause" will not be entitled to notice of termination or severance pursuant to the Canada Labour Code or the common law.

Termination for "just cause" could result from insubordination, theft, impairment, or mind-altering chemicals during work hours, and incompetency among other things.

### **13.0 Termination 'without cause'**



All termination of employment on the basis of “without cause” must be approved by Chief and Council.

MCFN must provide an employee with at least two weeks written notice of their intention to terminate the employment of an employee. In lieu of written notice, the employer must pay one week of wages at the regular rate to the employee for each year up to a maximum of two weeks.

This requirement applies to any employee whose employment is being terminated except as follows:

- an employee who has not completed three consecutive months of continuous employment;

- an employee who terminates their own employment;

- an employee who is dismissed for just cause;

- an employee who is on a lay-off that does not constitute a termination of employment;

- where the contract provides an end and that the work ends on that date.

## **14.0 Staff Resignation**

Employees wishing to terminate their employment must give written notice of at least ten business days to the Band Administrator. In special circumstances and with the consent of the Band Administrator, the employee may terminate employment with less notice.

Adjustments will be made on the last pay cheque for such items as holiday pay, overpayments, and any amounts owing to the Band.

### **14.1 Exit Interview**

The exit interview should take place as soon as possible after the confirmed leaving date has been received. Employees that choose to participate in an exit interview are encouraged to be honest, candid, and constructive in their responses. The information received through exit interviews will be confidential.

The Band Administrator or designate is responsible for arranging and conducting exit interviews.

All Band employee personnel files are classified as confidential. They will be stamped confidential and kept under lock and key in a filing cabinet in the Band Administrator’s office. They are only available to the Band Administrator, and the Assistant.

Employees who breach their Employee Code of Ethics Contract by releasing confidential information contained in personnel files shall be subject to disciplinary action up to and including termination.

## **15.0 Grievance Process**

For the purpose of employment contracts, a grievance is defined as a difference arising between the parties relating to the interpretation, application, administration, and alleged violation of the employment contract including any questions as to whether a matter is negotiable.

Grievances between employees, or an employee and supervisor shall be resolved through the Grievance Policy (See Appendix 5.)

## Appendix 1 – Employee Evaluation Form

# Employee Self-Evaluation

### Employee Information

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Job Title: \_\_\_\_\_

Department: \_\_\_\_\_ Length of time in this job \_\_\_\_\_

### Instructions

For each of the twelve **Work Factors** rate yourself excellent, good, average, fair or poor using these rating definitions, and check the appropriate box.

**Excellent** means I am unquestionably above acceptable employee standards and that my performance consistently exceeds job requirements.

**Good** means I am above acceptable employee standards and that my performance usually exceeds job requirements.

**Average** means I meet acceptable employee standards and that my performance of job requirements is consistent.

**Fair** means I must improve to meet acceptable employee standards and that my performance of job requirements is inconsistent.

**Poor** means I am definitely below acceptable employee standards and that my performance of job requirements is consistently deficient.

### Work Factors

Poor Fair Average Good Excellent

**Job Knowledge** means how well understand the fundamentals, skills, methods, and procedures required in my present job.

☐ ☐ ☐ ☐ ☐

**Quality** means the accuracy and completeness of my work.

☐ ☐ ☐ ☐ ☐

**Quantity** means the amount of work I produce in my work day.

☐ ☐ ☐ ☐ ☐

	Poor	Fair	Average	Good	Excellent
<b>Attendance</b> means my punctuality, conforming to work hours, and maintaining an acceptable attendance record.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Creativity</b> means my ability to find new and better ways of doing things and to be imaginative.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Dependability</b> means my ability to do required job well with a minimum of Supervision.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Initiative</b> means my desire to seek new assignments and additional duties.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Interpersonal Relationship</b> means my willingness and ability to cooperate and communicate with my co-workers, subordinates, supervisors/managers, customers, and other outside contacts.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Judgment</b> means my ability to form a sound opinion by careful study of the available facts and choices.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Performance under Pressure</b> means my ability to withstand pressure and to remain calm in crisis situations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Policy Adherence</b> means how well I follow company rules and regulations.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Overall Evaluation</b> means comparing myself with other employees with the same length of service in my present job.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Comments

This is what I can do to improve my job performance:

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---



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This is how the company can help me improve my job performance:

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Date: \_\_\_\_\_ Employee Signature: \_\_\_\_\_

## **Appendix 2 - Conflict Resolution Policy New**

### **1.0 Intent**

Missanabie Cree First Nation is committed to providing a workplace free of conflict that does not fall under harassment and violence, where employees are treated with fairness, dignity and respect. Missanabie Cree First Nation has instituted this policy to provide employees with an outlet to raise concerns regarding any conflict in the workplace or dissatisfaction with respect to issues related to their employment in an open and fair manner with provisions made to ensure their prompt and reasonable resolution. Under no circumstance should any employee fear discrimination or reprisal in the workplace as a result of the filing of a complaint.

### **2.0 Conflicts**

The following conflicts should be reported, and Missanabie Cree First Nation shall strive to address them with reasonable resolutions.

- Disputes with co-workers or managerial staff with unwanted, and unresolved consequences.
- Perceived unfair or inequitable treatment.
- Harassment whether sexual, discriminatory, or personal in nature.
- Abuse of authority.
- Administration of policies.

### **3.0 Conflict Reporting Procedure**

#### **3.1 Discussion**

- Employees are encouraged to discuss the unwanted behaviour or actions with the offending party as the situation dictates.
- Under ideal circumstances, the two parties shall reach a reasonable resolution without the necessity of the filing of a formal complaint.
- In the event that a discussion is not feasible or fails to reach a reasonable resolution, a formal complaint may be filed.

#### **3.2 Formal Complaint Reporting**

- Complainants should provide a written record the details of the unwanted circumstance(s), the names of any applicable witnesses, and any attempts made to resolve the issue heretofore.
- Formal complaints stemming from unresolved employee or managerial conflicts shall be submitted in writing with any pertinent documentation, to their supervisor or if the complaint is against the supervisor, the complaint will be brought forth to the Band Administrator.
- Formal complaints shall be reviewed and investigated.

- Formal complaints must be submitted within 14 days from the date of the alleged incident(s).
- In all cases where formal complaints have been lodged, it is important to maintain a policy of strict confidentiality between the complainant and the responder. For investigative purposes, the offending party may be notified.
- Anonymous complaints shall not be reviewed.

### **3.3 Employee Expectations**

### **3.4 Employees**

- Employees are required to fully comply with the Conflict Resolution Policy.
- Shall be treated fairly throughout the process, as either a complainant, or alleged offending party.
- Shall be responsible for maintaining confidentiality regarding their involvement, and the complaint itself.
- Shall co-operate with any investigations in relation to complaints.

### **3.5 Management / Supervisors**

- Management / supervisors shall be responsible for enacting preventative measures to ensure a workplace that is free from harassment, and for the communication of policy and procedures contained herein.
- Management / supervisors shall receive and address properly filed complaints in an appropriate fashion within 14 business days from the complaint being received.
- In the event that the complainant and the offending party are engaged in a subordinate-supervisor relationship, they may be physically removed from each other on a temporary basis and may require a change in their reporting relationship.
- Investigate, or co-investigate any complaints, claims and documentation therein.
- Attempt to reach a reasonable resolution to the conflict.
- Inform the complainant that a resolution has been reached.

### **3.6 Resolutions**

- If an apology is made by the offending party, and the complainant accepts the apology, this may be viewed as a reasonable resolution.
- All attempts shall be made to reach a reasonable resolution through mediation of the complaint with both party's involvement.

### **3.7 Where the complaint is substantiated**

In the event that a complaint is substantiated and a reasonable solution to halt the unwanted behaviour or action through mediation is not possible, the following actions shall be taken for the offending party:

- Written warning/reprimand
- Transfer position
- Education and training
- Suspension
- Termination of Employment

### **3.8 Where the complaint is not substantiated**

In the event that a complaint is not substantiated due to lack of evidence or other reasons, both parties shall be informed with the rationale used. The complainant shall be notified first.

Both parties should be reminded that an unsubstantiated complaint does not necessarily mean that it was filed under false or frivolous pretences.

A complainant may request that the investigation be re-opened in the event that pertinent new evidence can be provided, or a reprisal due to the allegation has occurred.

### **3.9 Records**

Missanabie Cree First Nation shall keep on file all formal complaints, and the accompanying documentation, and the findings of any investigation.

Information from a previous investigation resulting in a substantiated complaint may be used for review and consideration purposes in the event of a new allegation.

### **3.10 False or Frivolous Complaints**

- Employees should be cognizant of the fact that a formal complaint against another employee is a serious allegation with repercussions.
- Where a complaint is found to be either false or frivolous, or where supporting documentation for a complaint has been falsified, the complainant or witness may be subject to disciplinary measures up to and including termination of employment.

## **Appendix 3 - Missanabie Cree First Nation Workplace Violence, Harassment, and Sexual Harassment Policy Required by Law**

### **1.0 Intent**

Missanabie Cree First Nation is committed to building and preserving a safe, productive, and healthy working environment for its employees, free from violence and harassment. Missanabie Cree First Nation will take all reasonable measures to ensure job candidates, employees, supervisors, the Band Administrator, and clients are not subject to any form of violence or harassment. This commitment applies to all areas of business, including training, performance, assessment, promotions, transfers, layoffs, remuneration, and all other employment practices and working conditions.

Acts of violence or harassment against or by any employee will not be condoned or tolerated by Missanabie Cree First Nation. This policy outlines the Missanabie Cree First Nation violence and harassment program, including how incidents of violence and harassment will be handled and investigated.

***Note: This document complies with the Occupational Health and Safety Act, including changes made by Bills 168 and 132.***

### **2.0 Definitions**

**Complainant** - A person who has made a complaint about another individual who they believe committed an act of violence or harassment against them.

**Respondent** - A person whom another individual has accused of committing an act of violence or harassment.

**Workplace Harassment** - Engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or workplace sexual harassment.

**Workplace Sexual Harassment** - Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity, or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant, or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

**Workplace Violence** - The exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker; an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker; or a statement or behaviour that is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

### **3.0 Guidelines**

This policy will be reviewed annually, or more frequently if necessary to ensure that it accurately represents the Missanabie Cree First Nation prevention program.



Missanabie Cree First Nation will provide all employees with appropriate training and information regarding the company's violence and harassment prevention practices and procedures. Employees are responsible for adhering to this policy and should report every incident of violence or harassment immediately to management. This includes any incidents that have been witnessed, experienced by, or reported to an employee.

For the purposes of this policy, workplace harassment or violence can occur:

- At the workplace;
- At employment-related social functions;
- In the course of work assignments outside the workplace;
- During work-related travel;
- Over the telephone, if the conversation is work-related; or
- Elsewhere, if the person is there as a result of work-related responsibilities or a work-related relationship.

Reasonable day-to-day actions by supervisors and or the Band Administrator that help manage, guide, or direct workers or the workplace and appropriate employee performance reviews, counselling, or discipline by supervisors and or the Band Administrator do **not** constitute harassment.

#### **4.0 Violence Risk Assessment**

Missanabie Cree First Nation will conduct a risk assessment of the work environment to identify potential risks that could affect the organization and the health and safety of employees and will institute measures to eliminate or control any identified risks to employee safety.

The following factors will be considered during the assessment:

- Past incidents of violence;
- Violence that is known to occur in similar workplaces;
- The circumstances in which work takes place, including the type of work and conditions of work;
- The interactions that occur in the course of performing work; and
- The physical location and layout of the workplace.

The risk assessment may include reviews of records, security reports, employee incident reports, staff perception surveys, health and safety inspection reports, first aid records, or other related records. Areas that will be considered and may contribute to risk of violence include but are not limited to contact with the public, exchange of money, receiving doors, and working alone or at night.

Missanabie Cree First Nation will provide the Band Administrator with a written copy of the assessment and advise of the results.

Missanabie Cree First Nation will disclose information to workers who are likely to encounter a known person with a history of violence in the performance of their job duties, or if there is a potential risk of workplace violence as a result of interactions with the person with a history of violence. However, Missanabie Cree First Nation will only disclose personal information that is deemed reasonably necessary to protect the worker from physical harm.

## **Appendix 4 - Workplace Violence and Harassment Program Required by Law**

### **1.0 Control Measures and Procedures**

The following measures have been implemented to eliminate or reduce the identified risks of workplace violence:

- CCTV Camera's have been placed at all entrances of the main building.
- All outside doors lock automatically when closed.
- Adequate lighting will be placed at all doors.
- All staff are in possession of entrance keys and their own office keys
- Intercoms and doorbells are in place at the front entrances.
- Reception and other relevant staff will be informed of new alerts as they occur.

### **2.0 Immediate Assistance Procedures**

The following measures and procedures should be followed when an incident of violence has occurred or is likely to occur and immediate assistance is required:

- Place an immediate call to emergency services by dialing 911.
- Find and notify any other staff in the building if necessary.
- If the violence is occurring inside, exit the building at the closest, safest point of entry.
- If the violence is occurring outside or has occurred outside and the employee(s) are inside, do not open the door and wait for the authorities to arrive before exiting the building.

### **3.0 Reporting Incidents of Workplace Violence and Harassment**

An employee who believes they have been subject to violence or harassment should submit a complaint to their supervisor or the Band Administrator only if the Band Administrator is their supervisor. The complaint should be made as soon as possible following the incident and must include the following information:

- The date and time of the incident;
- The name of any persons involved in the incident;
- The name of any persons who witnessed the incident; and
- A thorough description of what occurred.

An employee who believes they have been subject to harassment may also choose to confront the harasser without filing a formal complaint. They can confront the harasser directly or through writing, detailing the unwelcome behaviour and requesting it to stop.

If the alleged harasser is the employee's supervisor, or in a position of power, the complainant shall file a complaint with the Band Administrator.

If the alleged harasser is the Band Administrator, the complainant shall file a complaint with Chief and Council.

If the alleged harasser is a member of Chief and Council, the complainant shall file a complaint with the Band Administrator which will be brought forward to the non-offending members of Chief and Council for review.

#### **4.0 Investigation Procedures**

Once a complaint has been received, Missanabie Cree First Nation will complete a thorough investigation. Missanabie Cree First Nation will ensure that, where practicable, the investigation is completed within 90 days of the complaint being filed.

The investigation will include:

- Informing the respondent of the complaint;
- Interviewing the complainant and any persons involved in the incident;
- Identifying and interviewing any witnesses; and
- Obtaining statements from all parties involved.

All the above information will be documented and used to determine whether an incident of violence or harassment occurred. If necessary, Missanabie Cree First Nation may employ outside assistance or request the use of legal counsel.

A copy of the complaint, detailing the complainant's allegations will be provided to the respondent, who will be invited to reply in writing to the complainant's allegations. The reply will be made known to the complainant before the case proceeds.

Missanabie Cree First Nation will take all measures to prevent any disclosure of the incident and the identities of the parties involved, unless the disclosure is necessary for the investigation, for taking corrective action or required by law.

#### **5.0 Results of Investigation**

Upon completion of an investigation, Missanabie Cree First Nation will provide both the complainant and respondent a written summary of the findings of the investigation and any corrective action that has been or will be taken as a result of the investigation. This written notification will be provided within 10 working days of the investigation being completed and will not include the investigation report unless required by law.

#### **6.0 Control Measures**

Where Missanabie Cree First Nation determines that violence or harassment has occurred, control measures will be implemented to eliminate or control the risk of violence or harassment to a worker as a result of the investigation. These control measures will be determined on a case-by-case basis, depending on the situation investigated. Any control measure enacted will be communicated to the complainant and respondent, as well as any other employees the measure effects.

#### **7.0 Disciplinary Measures**

Any disciplinary action will be determined by their immediate supervisor and if escalated, the Band Administrator, and will be proportional to the seriousness of the behaviour or action involved in the incident.

If the company determines that an employee has been involved in an incident of violence or harassment towards another employee, immediate disciplinary action will be taken, up to and including immediate dismissal.

## **8.0 Domestic Violence**

If Missanabie Cree First Nation becomes aware that domestic violence is likely to expose an employee to physical injury in the workplace, Missanabie Cree First Nation will take every precaution reasonable in the circumstances for the protection of the worker.

## **9.0 Recommendations to Victims**

Missanabie Cree First Nation will provide appropriate assistance to any employee who is a victim of violence or harassment. Missanabie Cree First Nation recommends that a worker who has been harmed as a result of an incident of violence at the workplace consult their health care provider for treatment or referral for post-incident counselling, if appropriate.

## **10.0 The Right to Refuse Unsafe Work**

Employees have the right to refuse work if they have a reason to believe that workplace violence is likely to endanger them. Upon refusing to work, the employee must report the circumstance of the refusal to their supervisor. An investigation will follow in the presence of the Band Administrator

## **11.0 Fraudulent or Malicious Complaints**

It is a violation of this policy for anyone to knowingly make a false complaint, or to provide false information about a complaint. Unfounded or frivolous allegations may cause both the respondent and Missanabie Cree First Nation significant damage. Any employee who knowingly makes a false allegation related to violence or harassment will be subject to immediate disciplinary action, up to and including termination of employment.

## **12.0 Recordkeeping**

Missanabie Cree First Nation will ensure that appropriate records of complaints and investigations relating to incidents of violence and workplace harassment are kept, including:

- A copy of the complaint or details about the incident;
- Any records related to the investigation, including notes;
- A copy of the investigation report (if applicable);
- A summary of the investigation results, including the reports provided to the complainant and respondent; and
- A copy of any corrective action taken to address the complaint or incident.

## **13.0 Confidentiality**

Missanabie Cree First Nation will not disclose the name of a complainant or a respondent or the circumstances related to the complaint to any person except where disclosure is necessary to investigate the complaint or take corrective action with respect to the complaint or required by law.

Missanabie Cree First Nation will only disclose the minimum amount of personal information or details necessary for these purposes.

The workplace safety and health committee will not be involved in investigations and will not be provided with any identifying information of the parties involved.

All records of harassment, and subsequent investigations, are considered confidential and will not be disclosed to anyone except to the extent required by law. Missanabie Cree First Nation will do everything reasonably possible to protect the privacy of any individuals involved and to ensure that complainants and respondents are treated fairly and respectfully.

#### **14.0 Policy Review**

In accordance with the *Occupational Health and Safety Act*, Workplace Violence, Harassment, and Sexual Harassment Policy will be posted in a conspicuous place in the workplace and reviewed annually.

# **Appendix 5 – Grievance Policy New**

## **Intent**

Missanabie Cree First Nation has instituted this policy to provide employees, interns, student workers, volunteers, and placement students with an outlet to express any dissatisfaction with respect to issues related to their employment. In order to foster better employer / employee relations, Missanabie Cree First Nation has established a grievance review system to resolve any issues that may arise.

## **1.0 Principles**

Missanabie Cree First Nation (MCFN) is committed to creating a safe work environment free from harassment and discrimination and built upon the virtues and values as outlined in the MCFN Vision Statement: Honesty, Dignity, Equality, and Balance.

## **2.0 This Policy Shall:**

1. Outline the Grievance review policy and procedures;
2. Provide employee responsibilities;
3. Detail restrictions that apply to the Grievance review process;
4. Outline the Employee Appeal Process.

## **3.0 Guidelines**

Employees have the right to request conflict resolution in the application and in the interpretation of policies.

If you experience a conflict / dispute while on the job, Missanabie Cree First Nation expects that you will make every effort to resolve the matter in an appropriate and timely fashion.

The following steps have been outlined to assist Missanabie Cree First Nation employees in handling conflicts:

1. Make every attempt to resolve the matter yourself by speaking to the individual with whom you are having difficulty, even if it means having more than one meeting.
2. Consult the Missanabie Cree First Nation Policy Employment Policy to determine whether or not your concern is addressed within the policy.
3. Speak to your immediate supervisor about the issue. If, however, the issue is with your immediate supervisor, and you do not feel comfortable speaking to them about it then you should seek guidance from the Band Administrator.
4. Within 5 business days of the meeting, an initial review shall be held by the Band Administrator/supervisor. The Band Administrator/supervisor shall seek any additional information from other parties involved. The Band Administrator/supervisor may have a meeting with any other employees involved in the complaint.

5. Upon completion of the initial review, the Band Administrator/supervisor will seek a resolution that is agreeable to all parties. In doing so, the Band Administrator/supervisor may convene a meeting and/or sharing circle mediation which is a traditional sharing circle facilitated by a community elder to resolve an issue through a respectful process of allowing each speaker to speak in turn without interruption with any or all affected parties to resolve the concern.

6. In the event that you are unable to satisfactorily resolve your conflict and wish to launch a grievance, then the process has been outlined below.

7. The Grievance review portion of this process is designed to address employee dissatisfaction regarding conditions of employment, or tangible job actions such as:

- Wages
- Working conditions
- The administration of company policies
- Perceived unfair or inequitable treatment
- Written or final warning
- Termination

*It is important to note that grievances relating to workplace harassment (sexual, or racial), should be reported as outlined in the Workplace Harassment and Task Force Policy.*

#### **4.0 Grievance Review Steps:**

1. Supervisor
2. Band Administrator
3. Chief and Council
4. Grievance Committee Panel
5. Third party human resources consultant

*\*In the event that a supervisor's performance or conduct is the subject of the employee's grievance, the employee may begin the process at step two rather than step one.*

#### **5.0 Administrative Related Issues**

##### **5.1 Employee Responsibilities**

- The grievance may be raised initially through a verbal discussion. However, if an investigation is required, the employee shall submit a detailed written letter of grievance and attach any pertinent documentation within 5 business days of the events giving rise to the aforementioned grievance.
- A written letter of grievance shall generate a written response from the employee's immediate supervisor no later than 5 business days indicating the objectives and / or procedures that will be followed to resolve the grievance issue.
- If the employee's immediate supervisor is unable to resolve the grievance issue, it will be forwarded on to the next level for review. Additionally, where a grievance is filed against the employee's immediate supervisor, the employee shall file the grievance with the Band Administrator.

- Where a grievance is filed by the supervisor, the Band Administrator will review the written grievance within 5 business days of receiving the grievance. The Band Administrator will develop a process with identifiable objectives to resolve the grievance issue. If no resolution is forthcoming, the Band Administrator may call upon Chief and Council to review the grievance issue and jointly render a final decision.
- Where a grievance pertains to the Band Administrator, the employee will file a written grievance directly to Chief and Council who will review the grievance and render a final decision.
- Persons other than the affected employee may not represent or file a grievance on behalf of the affected employee(s). Employees must assume responsibility for their own concerns.
- For a grievance to be considered, it must discuss specific incidents or circumstances which have directly affected the employee, and suggest or request improvements which are both reasonable, and within the control of Missanabie Cree First Nation.
- Anonymous grievances shall not be reviewed.
- No employee shall be disciplined for using the Grievance review process.

## **5.2 Supervisors and Band Administrator Responsibilities**

The grievance review process is required to consider the specific concerns raised and determine the eligibility of the grievance under review.

1. Does the grievance meet the definitions established to qualify for review?
2. Is the grievance specific to the employee involved?
3. Does the resolution of the grievance fall within the scope of authority of the supervisor or Band Administrator?
  - If the grievance meets the eligibility criteria, the supervisor or Band Administrator shall respond to the employee in writing within 5 business days following receipt of the grievance. The response shall include:
    - the objectives / procedures to resolve the grievance issue; or
    - an indication that the supervisor's decision will not be reversed and / or amended and that the grievance issue shall be forwarded for further review.
  - If the grievance does not meet the first two criteria for eligibility, the supervisor or Band Administrator shall notify the employee that the grievance does not qualify for review, and the reasons for the determination.
  - If the grievance meets the first two eligibility requirements, but does not meet the third, the supervisor or Band Administrator shall notify the employee that their grievance has been forwarded to a higher authority to help resolve the grievance review process.
  - If the grievance is reviewed but is not resolved to the satisfaction of the employee, the grievance will progress to the next level in the review process, up to and including alternate dispute resolution processes (e.g., mediation and / or arbitration).

Copies of the initial grievance, supporting documentation and all response correspondence / reports must be including in the employee's personnel file for Missanabie Cree First Nation.

## **6.0 Disciplinary Action or Termination of Employment**

### **6.1 Employee Responsibilities**

- Employees that have a grievance due to either disciplinary action or termination of employment may file a written grievance to their immediate supervisor within 10 business days of receiving notice of the



aforementioned. The written grievance shall include a detailed account of the employee's grievance including names, dates, and any other pertinent documentation / information.

- The supervisor shall acknowledge receipt of an employee's written grievance by signing and date stamping the written grievance before the employee. The employee shall receive a copy of their signed/date stamped written grievance.
- The written grievance shall be reviewed by the employee's immediate supervisor at which time a written response shall be forwarded to the employee no later than 5 business days after receipt of grievance indicating one of the following:
  - the objectives / procedures to resolve the grievance issue; or
  - an indication that the supervisor's decision will not be reversed and / or amended and that the grievance issue shall be forwarded for further review.
- The Band Administrator shall review all documents related to the grievance issue and schedule a Grievance Review meeting between the employee and his/her immediate supervisor within 5 business days following receipt of the written grievance. In a written response following the Grievance Review meeting, the Band Administrator may indicate one of the following:
  - the objectives / procedures to resolve the grievance issue; or
  - an indication that the supervisor's decision will not be reversed and / or amended and that the grievance issue shall be forwarded for further review.
- The Grievance Review Committee shall review all documents related to the grievance issue and schedule a Grievance Review Hearing between the employee, his / her immediate supervisor, and the Band Administrator. The meeting shall be scheduled within a reasonable timeframe and the Committee shall not exceed 30 days to resolve the matter.
- Employees are not required to adhere to the aforementioned procedures in situations that involve termination of employment.
- Anonymous grievances shall not be reviewed.
- No employee shall be disciplined for using the Grievance review process.

### **6.3 Supervisors and the Band Administrator Responsibilities**

- If the employee is filing a grievance due to a disciplinary action or termination of employment within 10 business days of receiving notice of the aforementioned, the immediate supervisor shall acknowledge the receipt of an employee's written grievance by signing and date stamping the written grievance before the employee. The employee shall receive a copy of their signed/date stamped written grievance.
- The written grievance shall be reviewed by the employee's immediate supervisor at which time a written response shall be forwarded to the employee no later than 5 business days after receipt of grievance indicating one of the following:
  - the objectives / procedures to resolve the grievance issue; or
  - an indication that the supervisor's decision will not be reversed and / or amended and that the grievance issue shall be forwarded for further review.
- The Band Administrator shall review all documents related to the grievance issue and schedule a Grievance Review meeting between the employee and their immediate supervisor within 5 business days following receipt of the written grievance. In a written response following the Grievance Review meeting, the Office Manager may indicate one of the following:
  - the objectives / procedures to resolve the grievance issue; or
  - an indication that the supervisor's decision will not be reversed and / or amended and that the grievance issue shall be forwarded for further review.
- The Employee Review Committee shall review all documents related to the grievance issue and schedule a Grievance Review Hearing between the employee, his / her immediate supervisor, and the Band Administrator. The meeting shall be scheduled within a reasonable timeframe and the Committee shall not exceed 30 days to resolve the matter.

- Copies of the initial grievance, supporting documentation and all response correspondence / reports must be including in the employee's personnel file for Missanabie Cree First Nation.

## **6.4 Time Limits**

It is understood that the timelines outlined above for filing and response must be adhered to, unless otherwise agreed to by both the employee and employer.

If, at any step in the grievance procedure, the grievance has not been processed by the employer within the prescribed time limits, the grievance may be advanced to the next step by the griever within the time limits prescribed.

For the purpose of this clause, all time limits therein shall be deemed to be exclusive during Saturdays, Sundays, and paid holidays and also while the accused is on leave or on holidays.

## **6.5 Employee Grievance Review Committee**

Missanabie Cree First Nation shall be comprised of two neutral non-Council Community members and an Elder from Missanabie Cree First Nation and shall review all documents related to grievances surrounding disciplinary action or termination of employment and schedule a Grievance Review Hearing between the employee, their immediate supervisor and the Band Administrator. The meeting shall be scheduled within a reasonable timeframe and the Committee shall not exceed 30 days to resolve the matter. All decisions and directions of the Employee Grievance Review Committee are final.

For the purposes of this section, a neutral member is a community member who is not a member of the immediate family of the griever, friend, or an individual who has deemed a conflict as per the Missanabie Cree First Nation Conflict of Interest Policy.

## **6.6 Employee Appeal Process**

Missanabie Cree First Nation is committed to treat its employees in a fair and equitable manner at all times and to provide a formal mechanism for any employee to seek redress for any alleged treatment that is not in accordance with the policies and codes of Missanabie Cree First Nation.

The Employee appeal process is intended to clarify any misunderstandings or to correct a possible mistreatment. This section does not preclude an employee from accessing their rights under the provincial Employment Standards Office, under the Canadian Human Rights Act, and the Canada Labour Code.

## **6.7 Employee Appeal Confidentiality**

All information regarding the dispute will be treated in confidence to the extent possible but understanding that witnesses may need to be interviewed and the Employer in the process will need to disclose some information to conduct a proper investigation. Information that is shared while conducting the investigation will be disclosed on a need-to-know basis.

## **6.8 Employee Appeal Hearing**

1. The hearing will be informal in nature so that employees are able to present their own submissions;

2. The panel may consider the use of other methods or technologies for receiving submissions, including: written submissions, oral submissions,
3. Employees have the right to be represented before the panel, however any cost associated with such representation is the responsibility of the employee; and
4. Employees who file a dispute may be granted a leave of absence with pay during the hearing to present their submission directly to the panel.

## **6.9 Complaint Resolution Panel**

Where a Complaint Resolution Panel is formed it will consist of the (Position Titles) on the committee.

The role of the Complaint Resolution Panel is to assist the Employee in resolving the disputes set out above.

The Panel Members are responsible for:

1. Providing interpretation and assistance on the application of this policy directive;
2. Ensuring that disputes raised by employees are investigated and a decision is reached.
3. Ensure that the investigation is treated in confidence without interfering with the investigation process;
4. Forming a Dispute Resolution Panel when required;
5. Providing informal reviews of dismissal for cause when requested;
6. Monitoring the effectiveness of the process in this policy directive; and
7. Delegating any of these responsibilities to the appropriate staff within the administration.

## **6.10 Procedure to File the Appeal**

- Within 30 days of the incident the Employee sends a written complaint to the Executive Director for Missanabie Cree First Nation, to the Director / Manager for explaining in detail the facts of the situation and the name, address, and phone 123numbers of each of the witnesses and what each of them can confirm.
- Within 10 business days of receipt of the written complaint the Executive Director for Missanabie Cree First Nation, the Band Administrator will investigate the matter and meet with the Employee to attempt to resolve the matter informally.
- If the Employee remains unsatisfied after the Decision of the Band Administrator has been reached the Employee will within 14 days of receiving the response submit a written complaint to the senior management requesting assistance from the Chief and Council.
- Chief and Council will review the written complaint of the Employee and will notify the Grievance Review Committee and if a complaint resolution panel has not been formed, the (Title) will form a Panel within 14 days of the senior management receiving the written complaint by the Employee.
- The Complaint Resolution Panel will respond directly to the Employee with a written decision within 30 days of the Panel being formed. The Panel may meet with the Employee during this time to obtain more information regarding the complaint and to provide the Employee with a copy of the written decision they have reached.

### **6.11 Grievance Review Restrictions**

- Grievances regarding harassment (racial, sexual, etc.) or illegal discrimination should be reviewed immediately pursuant to the Workplace Harassment Policy. Filing a grievance with the Human Rights Commission or any similar agency shall not preclude an employee's use of the Missanabie Cree First Nation Grievance Policy.
- Employees shall not be disciplined or receive any form of retaliation for utilizing the grievance review process.
- Missanabie Cree First Nation cannot guarantee that an employee's specific grievance will be resolved in the manner he/she requested, or his/her satisfaction with the resolution.

### **Amendment**

Amendments to the Missanabie Cree First Nation Employment Policy shall be approved by a quorum of Chief and Council.

### **Review Period**

Annually or as required.

### **Approval**

This policy shall come into effect on the date it has been approved by a quorum of Chief and Council.

## Missanabie Cree First Nation



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### Acknowledgment and Agreement

I, \_\_\_\_\_, acknowledge that I have read and understand the following:

\_\_\_\_ The Employment Policy

\_\_\_\_ The Workplace Violence and Harassment Program

\_\_\_\_ The Missanabie Cree First Nation Workplace Violence, Harassment, and Sexual Harassment Policy

\_\_\_\_ The Conflict Resolution Policy

\_\_\_\_ The Grievance Policy

I understand that if I violate the rules/procedures outlined in this policy, I may face disciplinary action, up to and including termination of employment/position.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Witness: \_\_\_\_\_