

**POKAGON BAND OF POTAWATOMI INDIANS
WDETANMOWEN IN SERVICE POLICY AND PROCEDURE**

1. Introduction

- (a) The Seven Grandfather Teachings, including Wdetanmowen, provide guidance on how people should conduct themselves.
- (b) The Band offers a wide array of Services to Participants through Departments and owns or occupies Facilities, some of which may be accessed by Participants and Visitors.
- (c) The Band is committed to Wdetanmowen and being accessible and responsive to all Participants who seek or obtain Services. At the same time, the success of the Band depends on:
 - (1) The ability of Employees to work in an effective and efficient manner;
 - (2) The health, safety and security of all Employees, Participants, Visitors, and Facilities; and
 - (3) Employees, Participants and Visitors following the teaching of Wdetanmowen in seeking, obtaining and delivering Services.
- (d) Unreasonable Conduct violates the teaching of Wdetanmowen.
- (e) When Participants or Visitors engage in Unreasonable Conduct, their behavior can negatively impact the ability of the Band to effectively and efficiently deliver Services. As a result, the Band shall promptly address Unreasonable Conduct in accordance with this Policy.
- (f) The Band is committed to ensuring that all Employees are aware of and understand this Policy. All Employees who are likely to encounter Unreasonable Conduct in the course of their work shall receive appropriate training and information on this Policy and appropriate strategies for managing Unreasonable Conduct.

2. Definitions

For purposes of this Policy, the following terms are defined:

- (a) “Appeal” means the appeal of the Director’s Decision or Government Manager’s decision under Section 8 of this Policy.
- (b) “Appellant” means any Participant or Visitor who files an Appeal.
- (c) “Band” means the Pokagon Band of Potawatomi Indians.

- (d) “Department” means any department or program of the Band.
- (e) “Director” means the director of any Department.
- (f) “Director’s Decision” means the decision of a Director to restrict a Participant’s or Visitor’s access to Services or Facilities, as set forth in the Restriction Letter.
- (g) “Employee” means any individual employed by the Band.
- (h) “Encounter Form” means an Unreasonable Conduct Employee Encounter Form.
- (i) “Facilities” means all buildings and structures owned or occupied by the Band.
- (j) “Fact Finder” means the neutral fact finder selected by the Pokagon Band.
- (k) “Government Manager” means the Government Manager of the Band, or the Assistant Government Manager, to the extent any responsibilities under this Policy are delegated by the Government Manager.
- (l) “Government Manager’s Decision” means the written decision of the Government Manager rendered on any Appeal.
- (m) “Office of the Government Manager” means the Government Manager’s office located at 58620 Sink Road, Dowagiac, Michigan 49047.
- (n) “Participant” means an individual who is eligible for or receives any Services.
- (o) “Policy” means this Wdetanmowen in Service Policy and Procedure.
- (p) “Report Form” means an Unreasonable Conduct Participant or Visitor Report Form.
- (q) “Restriction Letter” is a letter from a Director to a Participant or Visitor, which restricts such person’s access to Services or Facilities.
- (r) “Service” means any service or program offered by the Band.
- (s) “Unacceptable Behavior” means any conduct that is unreasonable, regardless of the level of stress, frustration or anger experienced, because it compromises the health, safety or security of Employees, Participants or Visitors, including without limitation:

- (1) Being violent, aggressive or physically or verbally abusive;
 - (2) Being derogatory, racist, discriminatory or defamatory;
 - (3) Being confrontational or intimidating;
 - (4) Acting without Wdetanmowen;
 - (5) Engaging in harassment, bullying or stalking;
 - (6) Being vulgar, loud or disruptive;
 - (7) Making threats involving any harm, injury or damage;
 - (8) Being uncooperative, refusing to leave or creating a scene;
 - (9) Being under the influence of alcohol or drugs; or
 - (10) Engaging in any criminal conduct.
- (t) “Unreasonable Conduct” means any Unacceptable Behavior, Unacceptable Demands or Unacceptable Lack of Cooperation.
- (u) “Unacceptable Demands” means any demands that have a disproportionate and unreasonable impact on the Band, Services, Employees, time or resources, including without limitation:
- (1) Insisting on outcomes that are not possible or appropriate under the circumstances, such as demanding that someone be disciplined or an apology be issued when there is no reasonable basis for the demand; or
 - (2) Demanding Services that are of a nature or scale that the Band cannot provide after the situation has been explained at least twice.
- (v) “Unacceptable Lack of Cooperation” means any unwillingness to cooperate with Employees or Band processes that results in a disproportionate and unreasonable use of Services, time or resources, including without limitation:
- (1) Refusing to follow or accept reasonable Band instructions without a clear or justifiable reason for doing so; or
 - (2) Withholding relevant information, acting dishonestly, etc.
- (w) “Visitor” means any individual, other than a Participant, who enters any Facilities.

- (x) “Warning Letter” is a letter from a Director to a Participant or Visitor which imposes restrictions on such person other than restricting access to Services or Facilities as a result of Unreasonable Conduct.
- (y) “Wdetanmowen” means respect and instructs people to hold others with high regard and to treat everyone with respect and appreciation.

3. **Purpose**

The purpose of this Policy is to assist Departments in managing Unreasonable Conduct to ensure that Employees:

- (a) Act with Wdetanmowen and fairly, consistently, honestly and appropriately when responding to Unreasonable Conduct;
- (b) Understand their roles and responsibilities in relation to responding to Unreasonable Conduct and how this Policy shall be applied;
- (c) Understand the types of circumstances when it may be appropriate to use one or more of the strategies set forth in Section 5 of this Policy to respond to Unreasonable Conduct;
- (d) Understand the criteria that shall be considered before the Band decides to restrict access to Services or Facilities;
- (e) Understand the processes that shall be followed to record and report Unreasonable Conduct;
- (f) Understand the procedures for consulting and notifying Participants and Visitors about any proposed actions or decisions to restrict access to Services or Facilities as a result of Unreasonable Conduct; and
- (g) Understand the procedures for reviewing and appealing decisions made under this Policy, including specific timeframes.

4. **Scope**

- (a) This Policy applies to all Departments and Employees, but does not apply to the Police Department, Tribal Court, Gaming Commission, Pokagon Gaming Authority, Mno Bmadsen, or any entity which is owned, directly or indirectly by the Pokagon Gaming Authority or Mno Bmadsen.
- (b) Nothing in this Policy shall grant any Employees the right to file any complaint or grieve any disciplinary action arising in connection with their employment by the Band.
- (c) Nothing in this Policy shall grant any individual the right to file any complaint or grievance against any Employee which arises from or relates to the Employee’s employment.

- (d) Nothing in this Policy shall limit the ability of the Band to exercise other available remedies or restrict access to Services or Facilities through other available legal mechanisms, including without limitation, under the Band's Child Safety Zone Act, Code of Offenses or Exclusion Act.

5. Strategies to Manage Unreasonable Conduct

- (a) Most Participants who receive, or seek to receive, Services, and most Participants and Visitors who enter Facilities, act with Wdetanmowen and behave reasonably, appropriately and responsibly, even when experiencing stress, frustration and anger. However, some Participants and Visitors may engage in Unreasonable Conduct.
- (b) Employees shall use appropriate strategies to manage Unreasonable Conduct in the most efficient manner appropriate under the circumstances, including through a request to stop or verbal warning.
- (c) Any Participant or Visitor who engages in any Unacceptable Behavior within any Facility may be directed to immediately leave the Facility. The Director shall, based upon its structure and needs, determine the Employees who are empowered to issue such directive.
- (d) If a Participant or Visitor engages in Unacceptable Behavior in a manner which threatens the health, safety or security of Employees, Participants, Visitors or Facilities, then Employees shall not put themselves at risk of harm. Instead, Employees should promptly call 911.
- (e) If it becomes necessary to impose restrictions to effectively and efficiently manage Unreasonable Conduct, then such Unreasonable Conduct should be addressed by restricting or adapting the ways that Employees interact with, or Services are delivered to, Participants or Visitors. Examples include:
 - (1) Restricting who a Participant or Visitor is permitted to contact, such as designating an Employee to serve as the sole contact within a Department;
 - (2) Restricting what a Participant or Visitor can raise, such as the subject matter of communications for which there will be a response;
 - (3) Restricting when a Participant or Visitor can contact a Department, such as the day, time or frequency of contact;
 - (4) Restricting where a Participant or Visitor can contact a Department, such as requiring contact to be in certain areas of a Facility;
 - (5) Restricting how a Participant or Visitor can contact a Department, such as restricting face-to-face contact, telephone and written communications, or contact through a representative only; or

- (6) Restricting a Participant or Visitor from accessing Services or Facilities, in accordance with this Policy.
- (f) When imposing any restriction set forth in this Section, discretion shall be used to adapt restrictions to suit a Participant's or Visitor's personal circumstances, level of competency, literacy skills, etc. In this regard, more than one strategy may be needed to ensure appropriateness and effectiveness.
- (g) Only after all other appropriate strategies that do not involve restricting access to Services or Facilities have been considered and have failed or otherwise been determined to be futile or not practical, a Participant or Visitor may be restricted from accessing Services or Facilities for a period of up to twelve (12) months, if, and only if:
 - (1) The Participant or Visitor engaged in Unacceptable Behavior that poses a significant risk to the health, safety and security of Employees, Participants or Visitors; and
 - (2) The significant risk cannot be effectively and efficiently managed through less severe restrictions.

6. Procedure

- (a) Any Employee who encounters Unreasonable Conduct, which requires more than a request to stop or verbal warning, shall complete and send to the Director, within twenty-four (24) hours of the incident, an Encounter Form. An Encounter Form is attached to this Policy as Appendix A.
- (b) Participants and Visitors may report to Employees Unreasonable Conduct by another Participant or Visitor, which requires more than a request to stop or verbal warning. Upon any such report, an Employee shall ask the Participant or Visitor who made such report to complete a Report Form. If the Participant or Visitor declines, then the Employee shall complete an Encounter Form. The Employee shall send the Encounter Form or Report Form to the Director within twenty-four (24) hours of the report. A Report Form is attached to this Policy as Appendix B.
- (c) The Director shall decide the necessary and appropriate course of action for responding to and addressing the Unreasonable Conduct in accordance with this Policy, including in consultation with the Government Manager when required by this Policy.
- (d) When a Director receives an Encounter Form or Report Form, the Director shall contact the Employee to discuss the incident, including:
 - (1) The circumstances that gave rise to the incident;
 - (2) The identity of other persons who may have witnessed the incident;

- (3) The impact of the incident on the Band, Services, Employees, time and resources;
 - (4) The impact of the incident on other Participants or Visitors;
 - (5) The Participant's or Visitor's responsiveness to the Employee's warnings or requests to stop the Unreasonable Conduct;
 - (6) Any actions of the Employee to manage the Unreasonable Conduct;
 - (7) The merits of any complaint raised by the Participant or Visitor; and
 - (8) Any suggestions by relevant Employees on the ways the situation could be managed.
- (e) After consulting with relevant Employees, and endeavouring to consult with any witnesses and the Participant or Visitor who is the subject of the Encounter Form or Report Form, the Director shall review available information regarding such person's prior conduct and history with the Band and shall consider the following:
- (1) Whether the standard set forth in Section 5(g) of this Policy is satisfied.
 - (2) Whether the Participant or Visitor is likely to modify the Unreasonable Conduct if given a written warning, which imposes restrictions other than restricting access to Services or Facilities;
 - (3) Whether restricting access to Services or Facilities is necessary to manage the Unreasonable Conduct;
 - (4) Whether restricting access to Services or Facilities would affect the Participant's or Visitor's ability to meet his or her obligations, if known;
 - (5) Whether restricting access to Services or Facilities would have an undue impact on the Participant's or Visitor's welfare, livelihood or dependents, if known;
 - (6) Whether the Participant's or Visitor's personal circumstances contributed to the Unreasonable Conduct, including whether the Participant or Visitor is under significant stress as a result of illness, physical disability, illiteracy, communication barrier, mental illness, personal crises, or substance or alcohol abuse, if known;
 - (7) Whether applicable law imposes any limits on the types of restrictions that can be placed on the Participant's or Visitor's access to Services or Facilities; and
 - (8) Any other relevant information.

- (f) After the Director has considered the above factors, the Director shall decide, subject to the approval of the Government Manager, on the appropriate restrictions, if any, considering all reasonable options for managing the Unreasonable Conduct, including restrictions that do not involve restricting access to Services or Facilities.

- (g) Unless a Participant or Visitor is restricted from accessing Services or Facilities in accordance with this Policy, the Director shall, if appropriate, provide the Participant or Visitor with a Warning Letter, which shall, at a minimum:
 - (1) Describe the Unreasonable Conduct, including the date, time and location;
 - (2) Describe any restrictions imposed and the restrictions on access to Services or Facilities that may be imposed if any Unreasonable Conduct continues;
 - (3) Include the name and telephone number of an Employee with whom the Participant or Visitor can discuss the written warning;
 - (4) Be signed by the Director;
 - (5) Include, as enclosures, this Policy and a copy of any Encounter Form; and
 - (6) Be delivered by first class United States mail to the Participant's or Visitor's last known address.

- (h) If a Participant or Visitor is restricted from accessing Services or Facilities, the Director shall provide such person with a Restriction Letter, which shall at a minimum:
 - (1) Describe the Unreasonable Conduct, including the date, time and location;
 - (2) Describe the restrictions imposed on access to Services or Facilities;
 - (3) State the duration of the restrictions, which shall not exceed twelve (12) months;
 - (4) Describe in a clear and full manner why the restrictions are necessary, including why less severe options for managing the Unreasonable Conduct are not appropriate;
 - (5) State that the restrictions shall be reviewed if the Director determines, at any time, that the restrictions may not be appropriate and, if the duration is longer than three (3) months, that the restrictions shall be reviewed by the Director not less than every three (3) months;
 - (6) Include the name and telephone number of the Director;
 - (7) Be signed by the Director;

- (8) Include, as enclosures, this Policy and a copy of any Encounter Form;
- (9) Include a reference to the appeal provisions (including the manner and deadline for such) in Section 8 of this Policy; and
- (10) Be delivered by first class United States mail to the Participant's or Visitor's last known address.
- (i) The Director shall notify all relevant Employees of every decision to restrict access to Services or Facilities and shall provide a copy of the Warning Letter or Restriction Letter to the Government Manager.
- (j) The Director shall ensure that records are maintained and updated regarding all decisions and reviews of decisions to restrict access to Services or Facilities.
- (k) A sample Director Checklist for Restricting Access is attached to this Policy as Appendix C.

7. Review of Restriction Letter

- (a) After a person has been issued a Restriction Letter: (1) the Director shall review such person's record not less than once every three (3) months to ensure that the restrictions remain appropriate; and (2) if the Director determines, at any time, that the restrictions may not be appropriate, including based upon information provided by the person who is the subject of the Restriction Letter, then the Director shall review the Participant's or Visitor's record. Following any such review, the Director may modify any restrictions with the Government Manager's consent.
- (b) To the extent the Director deems appropriate, the Director may invite the Participant or Visitor to participate in the review, including in person or through electronic means. At a minimum, the Director shall invite the Participant or Visitor to participate in the review through submission of a written comment or response. The Director shall cause a notice of review to be sent by first class United States mail to the Participant's or Visitor's last known address at least ten (10) calendar days prior to the date of the review.
- (c) During the review, the Director shall consider:
 - (1) The Participant's or Visitor's compliance with the restrictions on accessing Services or Facilities;
 - (2) The Participant's or Visitor's conduct during the restriction period, if known;
 - (3) The opinions of relevant Employees;
 - (4) Any relevant information provided by the Participant or Visitor in person or through written submission;

- (5) Whether the standard set forth in Section 5(g) of this Policy continues to be satisfied; and
 - (6) Any other relevant information.
- (d) The Director shall provide the Participant or Visitor with written notice of the Director's decision on review, which shall, at a minimum:
- (1) Identify the information that was considered during the review;
 - (2) Explain the decision on review, including the reasons supporting the decision;
 - (3) If the decision on review is to maintain or modify a restriction on accessing Services or Facilities, describe any new or continued restrictions and duration of the same;
 - (4) Include the name and telephone number of the Director;
 - (5) Be signed by the Director; and
 - (6) Be sent within ten (10) calendar days of the review by first class United States mail to the Participant's last known address.
- (e) The Director shall provide the Government Manger with a copy of the written notice of the Director's decision on review.
- (f) A sample Director Checklist for Decision on Review is attached to this Policy as Appendix D.

8. **Appeal**

- (a) Except as otherwise provided in this Section 8, a Participant or Visitor who is dissatisfied with the Director's Decision to restrict the Participant or Visitor from accessing Services or Facilities may Appeal the Director's Decision accordance with this Section 8.
- (1) The Appeal shall be in writing, signed by the Appellant and shall: (A) state the Appellant's full name, address and telephone number; (B) state whether the Appellant is a Participant or Visitor and describe the basis for such determination; (C) be addressed to the Government Manager; (D) identify the Director's Decision that is being appealed; (E) clearly and succinctly state why the Director's Decision is incorrect; (F) state all relief requested; and (G) be signed by the Appellant.
 - (2) The Appeal shall be delivered to the Office of the Government Manager within ten (10) calendar days after receipt of the Director's Decision set forth in the Restriction Letter.

- (3) The Restriction Letter shall be deemed received on the date of personal delivery to the Participant or Visitor or three (3) calendar days after mailing to the Participant's or Visitor's last known address by first class United States mail, postage prepaid, whichever occurs first.
 - (4) Any failure by Appellant to strictly comply with Section 8(a)(1) or 8(a)(2) above shall waive any right to Appeal under this Section 8 and the Director's Decision shall be final and binding upon all parties.
 - (5) The Government Manager may attempt to resolve the Appeal informally, including but not limited to, attempting to schedule a meeting with the Appellant and the Director for such purpose. All Appeals which are resolved through such informal resolution shall be reduced to writing and signed by the Appellant, the Director and the Government Manager.
 - (6) If the Appeal is not resolved informally, the Government Manager shall review the Restriction Letter, the Appeal and other relevant evidence and render the Government Manager's Decision within ten (10) calendar days after delivery of the Appeal to the Office of the Government Manager. The Government Manager's Decision shall be in writing, signed by the Government Manager and shall: (A) explain the decision on the Appeal; (B) any right of the Appellant to an Appeal hearing under Section 8(b) below and (C) the procedure for requesting an Appeal hearing.
 - (7) The Government Manager's Decision shall be delivered by first class United States mail to the Appellant's last known address.
 - (8) Notwithstanding any other provision of this Section 8, if the Appeal identified the Appellant as a Visitor, or if the Government Manager determines that the Appellant is a Visitor, then the Government Manager's Decision shall be final and binding on all parties. The Appellant shall have no right to Appeal the Government Manager's determination that the Appellant is a Visitor.
- (b) Any Appellant who is a Participant and is dissatisfied with the Government Manager's Decision may Appeal the Government Manager's Decision to the Fact Finder.
- (1) The Appeal shall be in writing, signed by the Appellant and shall: (A) state the Appellant's full name, address and telephone number; (B) identify the Government Manager's Decision that is being appealed; (C) clearly and succinctly state why the Government Manager's Decision is

incorrect; (D) state all relief requested; (E) request a hearing before the Fact Finder; and (F) be signed by the Appellant.

- (2) The Appeal shall be addressed to the Government Manager and delivered to the Office of the Government Manager within ten (10) calendar days after receipt of the Government Manager's Decision.
- (3) The Government Manager's Decision shall be deemed received on the date of personal delivery to the Appellant or three (3) calendar days after mailing to the Appellant's last known address by first class United States mail, postage prepaid, whichever occurs first.
- (4) Any failure by Appellant to strictly comply with Section 8(b)(1) or 8(b)(2) above, or to arrive within fifteen (15) minutes of the time scheduled for the Appeal hearing, shall waive any right to Appeal under this Section 8 and the Government Manager's Decision shall be final and binding upon all parties.
- (5) Upon receipt of an Appeal in accordance with this Section 8(b), the Government Manager shall refer the Appeal to the Fact Finder within five (5) calendar days of receipt of the written Appeal.
- (6) The Fact Finder shall set the date, time and place for the Appeal hearing, which shall be closed to the public. No stenographic record of the Appeal hearing shall be required, provided that the Fact Finder, on its own initiative, may require a stenographic record of the hearing to be prepared at the Band's expense. The parties shall be responsible for their own costs for transcripts of any such record.
- (7) The Fact Finder shall endeavor to set the Appeal hearing to occur within thirty (30) calendar days after receipt of the Appeal.
- (8) The Band may be represented by legal counsel. The Appellant may be represented by legal counsel, provided the Appellant shall notify the Fact Finder and the Band's legal counsel in writing at least ten (10) calendar days prior to the Appeal hearing date of the name, address and telephone number of such legal counsel.
- (9) The Band shall bear the cost of the Fact Finder. The parties shall be responsible for their own Appeal hearing expenses, including without limitation, legal fees and costs, witness expenses, travel and related expenses and document production.

- (10) No later than ten (10) calendar days prior to the date set for the Appeal hearing, the Band shall provide the Fact Finder and the Appellant with a copy of the following documents related to the Appellant: (A) Director's Decision; (B) Government Manager's Decision; (C) any Encounter Form; (D) any Report Form; and (E) any Director Checklist for Restricting Access Form.
- (11) No later than ten (10) calendar days prior to the date set for the Appeal hearing, the Band and the Appellant shall exchange the following information: (A) a concise, written statement of the factual issues to be decided at the Appeal hearing; (B) a concise, written statement of the legal issues to be decided at the Appeal hearing; (C) a list of the names of all witnesses to be called at the Appeal hearing and a brief description of the testimony to be offered by each witness, including the relevancy of such testimony to the issues; and (D) copies of all exhibits to be offered into evidence. The Fact Finder may exclude from the Appeal hearing any witnesses or exhibits which are not properly disclosed to the other party in a timely manner.
- (12) At the request of either party, or upon the Fact Finder's own initiative, the Fact Finder may conduct one or more preliminary conferences, in person or by telephone, with the parties and their legal counsel. The preliminary conference may address issues, such as the availability of witnesses or information, the exchange of information, the Appeal hearing schedule and any other preliminary or administrative matters. The Fact Finder shall resolve any disputes concerning the exchange of information.
- (13) Except as expressly set forth in this Section 8, any documents or notices related to an Appeal hearing may be served in person, by first class United States mail, postage prepaid and addressed to the party or its legal counsel or, with the prior approval of the Fact Finder, by email or other electronic means. Any documents or notices submitted by one party to the Fact Finder or by the Fact Finder to one party shall simultaneously be provided to the other party, except as the Fact Finder may expressly authorize.
- (14) The parties may offer at the Appeal hearing such evidence as is relevant and material and shall produce such evidence as the Fact Finder may deem necessary to an understanding and determination of the Appeal. Conformity to formal legal rules of evidence shall not be required.
- (15) The Fact Finder shall determine the admissibility of evidence offered at the Appeal hearing and may exclude evidence deemed by the Fact

Finder to be cumulative or irrelevant. The Fact Finder may take judicial notice and shall recognize applicable legal privileges, including those involving confidential or privileged communications recognized by law.

- (16) The Fact Finder may receive and consider the evidence or witnesses by affidavit, but shall give such evidence only such weight as the Fact Finder deems such evidence entitled to after consideration of any objection made to admission, including the inability cross examine the witness under oath.
- (17) The Fact Finder, in the exercise of discretion, shall conduct the Appeal hearing with a view of expediting the resolution of the Appeal and may direct the order of proof and direct the parties to focus their presentations on specific issues, the decision of which would dispose of all or part of the Appeal.
- (18) The Fact Finder shall maintain order and decorum at the Appeal hearing and may eject from the Appeal hearing any person who is disrespectful or disruptive.
- (19) The Fact Finder may require witnesses to testify under oath. At the request of either party, or upon the Fact Finder's own initiative, the Fact Finder may require the exclusion of any witness from the Appeal hearing, other than the parties or their legal counsel, during the testimony of any other witnesses.
- (20) The Appellant shall bear the burden of proof to establish by a preponderance of evidence that the Government Manager's Decision was arbitrary and capricious.
- (21) The Fact Finder shall apply the laws and written policies of the Band and is limited to those laws and policies in resolving the Appeal. The Fact Finder shall not have power to add to, subtract from, or otherwise modify the terms of such Band laws and policies.
- (22) The Appellant shall present evidence to support the Appellant's position and then the Band shall present evidence to support the Band's position. Witnesses for each party shall also submit to questions from the Fact Finder and the adverse party. Prior to the closing of proofs, the Fact Finder shall inquire of all parties whether they have any further proofs to offer or witnesses to be heard. At the conclusion of proofs, the Fact Finder shall afford the Band an opportunity to make a closing statement, followed by the Appellant.

- (23) The Fact Finder shall render a reasoned, written decision with findings of fact and conclusions of law. The Fact Finder shall issue and distribute the decision promptly, but not later than thirty (30) calendar days from the date the Appeal hearing was closed.
 - (24) If Appellant fails to meet the burden of proof, then the Fact Finder shall uphold the Government Manager's Decision.
 - (25) If Appellant satisfies the burden of proof, the authority of the Fact Finder shall be limited to overturning the Government Manager's Decision.
 - (26) The decision of the Fact Finder shall be final and binding on all parties.
 - (27) No Appellant shall appeal any decisions made under this Policy to the Tribal Council.
 - (28) The Fact Finder shall have sole authority to interpret and apply the rules set forth in this Section 8.
 - (29) The decision of the Fact Finder to overturn the Government Manager's Decision shall not in any way restrict or prevent the Band from issuing: (A) a Warning Letter in accordance with this Policy in connection with the Unreasonable Conduct which was the subject of the Appeal; or (B) a Warning Letter or Restriction Letter in accordance with this Policy in connection with any subsequent Unreasonable Conduct involving Appellant.
- (c) The filing of an Appeal under this Section 8 shall not suspend, delay, negate, delay or disrupt the implementation of the Director's Decision or the Government Manager's Decision which is the subject of the Appeal.
 - (d) This Section 8 shall not confer any right upon any Employees, provided that Employees may file an Appeal under this Section 8 solely in the capacity of a Participant or Visitor.
 - (e) This Section 8 sets forth the exclusive procedure governing any Appeal. No other Band grievance procedure shall apply to any such Appeal. This Section 8 does not prevent a Band citizen from utilizing any other available Band grievance procedure to challenge decisions that do not restrict the Band citizen's access to Services or Facilities.

9. **Sovereign Immunity**

Nothing in this Policy shall waive the sovereign immunity of the Band or any of its officials or Employees.

History

Approved on February 14, 2017, by Resolution No 17-02-14-05.

Appendix A
Unreasonable Conduct
Employee Encounter Form

This Encounter Form shall be completed by any Employee who encounters Unreasonable Conduct, which requires more than a request to stop or verbal warning.

Employee's Name and Title: _____

Describe the unreasonable conduct, including the person(s) involved, date, time and location.

Did anyone else witness the unreasonable conduct? If yes, please list.

Did the unreasonable conduct significantly threaten the health, safety or security of employees or other persons?

What action, if any, have you taken to manage the unreasonable conduct?

For example – did you ask the person to stop or warn the person?

What do you think should be done to effectively manage the unreasonable conduct?

Is there any other information that might be relevant to the incident? Attach any available supporting documentation.

Employee Signature

Date: _____

Appendix B
Unreasonable Conduct
Participant or Visitor Report Form

This Report Form shall be completed by any Participant or Visitor who seeks to report Unreasonable Conduct involving another Participant or Visitor.

Name of Participant or Visitor making the report:

Name _____

Address _____

Telephone # _____

Describe the unreasonable conduct, including person(s) involved, date, time and location.

Did anyone else witness the unreasonable conduct? If yes, please list.

Did the unreasonable conduct significantly threaten the health, safety or security of employees or other persons?

Is there any other information that might be relevant to the incident?

Participant's or Visitor's Signature

Date: _____

Appendix C
Director Checklist for Restricting Access

- I received a completed and signed Encounter Form or Report Form (attach copy) regarding the subject Participant or Visitor (“Individual”).
- I spoke with Employees, and endeavoured to speak with any witnesses and the Individual, to obtain further information, as needed.

- I reviewed the available information regarding the Individual’s prior conduct and history with the Band and endeavoured to consult with such person.

- I reviewed and considered the restrictions in Section 5 of the Policy, including all other appropriate strategies that do not involve restricting their access to Services or Facilities and whether:

- The Individual engaged in Unacceptable Behavior that poses a significant risk to the health, safety or security of Employees, Participants or Visitors; and
- The significant risk can be properly managed through less severe restrictions.

I reviewed and considered the procedure in Section 6 of the Policy, including the criteria governing my decision.

- I obtained the Government Manager’s consent to the decision to restrict access to Services or Facilities.
- I sent the Individual a Restriction Letter, signed by me, of the decision to restrict access to Services or Facilities and provided a copy to the Government Manager.
- I made a record of my decision about the Unacceptable Behavior and all relevant Employees, including the Government Manager, have been notified of my decision.

Director Signature

Date: _____

Appendix D
Director Checklist for Decision on Review

- The subject Participant or Visitor (“Individual”) was invited, through written notice, to participate in this review:
 - In person
 - Through written submission
- The Individual participated in the review:
 - In person
 - Through written submission
- I considered the following information during this review:
 - The Individual’s compliance with restriction

 - The Individual’s conduct during the restriction period, if known

 - The opinions of relevant Employees

 - Any relevant information provided by the Individual

 - Any other relevant information

- I considered whether the Individual continues to pose a significant risk to the health, safety or security of Employees, Participants or Visitors.

I considered whether the significant risk can be properly managed through less severe restrictions.

I obtained the Government Manager's consent to my decision.

My decision on review is that the restriction be:

- Continued
- Removed
- Amended

My decision on review was sent to the Individual within ten (10) calendar days of the review by first class United States mail to the Individual's last known address.

The record has been updated to reflect my decision.

Director Signature

Date: _____