

Chapter 7 – RULES OF CONDUCT

SECTION 1. GENERAL CONDUCT OF EMPLOYEES

Employees of Jicarilla Nation Government are expected to maintain a level of behavior and conduct that of the highest order and standard. Each employee has an obligation to render and perform assigned duties and responsibilities in an honest, efficient and courteous manner. Employees will be held responsible and accountable for adhering to rules and procedures contained in this manual and to all Nation policies, directives and procedures that govern their employment.

All Nation employees are responsible for performing their duties during work hours. Employees are required to conduct any personal endeavors and/or interest outside working hours. Employees of the Nation shall not engage in activities that may diminish discipline or morale in the workplace and that may degrade the integrity and efficiency of the Jicarilla Nation Government.

In turn, the Jicarilla Nation Government will take responsibility to keep work environment free from any type of unlawful harassment. The Jicarilla Nation Government has taken steps to assure that no person shall use their position, authority or political influence to negatively affect another employee's position or status, and to purposefully, obstruct or create unreasonable demands or commands, which hinders their advancement. Further, it assures that no employees shall in anyway or at any time be harassed or ridiculed because of a physical defect, personal handicap, disabling feature, and/or a character flaw which does not obstruct an employee's ability to perform assigned duties.

SECTION 2. RULES AND STANDARDS OF BEHAVIOR

The Jicarilla Nation Government will consider violation of the rules and standards of behavior enumerated below as grounds for disciplinary action, including suspension, demotion or termination.

1. No employee shall willfully or deliberately make false statements about self, another employee, or an applicant for employment.
2. No employee shall falsely certify, mark or report about self, another employee, or an applicant for employment; or in any manner be involved in fraudulent and deceptive behavior while an employee of the Nation.
3. Excessive personal use or abuse of Nation's office phones, cell phones, computer equipment and/or software, and other electronic or office equipment, provided for use in the workplace, is prohibited. Further, using a telephone, cell phone, computer or

other electronic communication equipment to abuse, assault or harass a Nation employee is also prohibited.

4. No employee shall make payment of money or other valuables, or exchange services to or with any person in the Nation for the purpose of gaining favorable treatment or for receiving advantageous consideration for employment.
5. No employee shall use his or her position to discriminate in favor of an immediate family member (father, mother, sister, brother, spouse, and child), or a personal acquaintance or to unfairly influence the work or employment status of an immediate family member or personal acquaintance.
6. No employee shall serve as a sales representative or make arrangement for an outside person or organization to sell goods, services or products while on official duty with the Nation.
7. No employee shall be involved in activities which are clearly in conflict (conflict of interest) with their duties or position in the Jicarilla Nation Government and/or which are contrary to Nation policies or are against the best interest of the Nation.
8. No employee shall use their position, or information from their employment, to influence decisions or action, which may result in an unfair advantage in outside employment or business activity.
9. Employees are prohibited from soliciting or accepting any gifts, gratuity, favors, entertainment, loan, or any other item of monetary value from any person(s) who has or is seeking to obtain business with the Jicarilla Apache Nation Government.
10. Employees are prohibited from accepting any item of monetary value from any person(s) within the Jicarilla Nation Government whose interest may be affected by the employee's performance or non-performance of official duties.
11. Employees shall not engage in any for-profit business activity other than their regularly assigned duties during working hours. Prohibited activities include but are not limited to the following: selling to fellow employees, lending money for profit, and soliciting for outside interest. An employee selling cosmetics, kitchenware, food or such items to fellow employees must handle all transactions before or after working hours or during lunch hours only.
12. Employees shall not use or authorize the use of a Nation owned motor vehicle for other than official purposes. A Jicarilla Apache Nation vehicle license is required and must be obtained in accordance with all applicable laws, rules and policies of the Nation prior to use of a Nation vehicle and shall be carried upon the person of the employee at all times while a Nation vehicle is in use by the employee. Jicarilla Apache Nation Government employees shall be held accountable for Nation property and funds entrusted to their use in connection with their official duties. It is their responsibility to protect and

conserve Nation property and to use it economically and for Jicarilla Nation Government purposes only.

13. Nation employees shall follow safety rules outlined in this manual and any other safety rules of the department or office in which they work.
14. Nation employees shall appear as requested or assigned at Grievance and Interview Board proceedings as outlined, described and required in this manual.
15. Executive Leadership and Court Administrator shall provide the Nation President or Trial Judge, as appropriate, and the Human Resource Office names of at least two persons, listed in order of succession that will be in charge in their absence.
16. With the written approval of the Nation President or Trial Judge, as appropriate, an employee may engage in outside employment. However, no employee may engage in additional employment which in any manner interferes with proper and effective job performance, results in a conflict of interest, or subjects the Nation to public criticism or embarrassment. If the Nation President or Trial Judge, as appropriate, determines that such outside employment is detrimental to the Nation, then the employee will be notified in writing that the employee must resign from either the outside employment or Nation employment.

Acceptance of nominal gifts in keeping with special occasions, such as marriage, retirement, or illness; food and refreshments in the ordinary course of business meetings; or unsolicited advertising or promotional materials, such as pens, note pads, or calendars of little value, are permitted. Also, contributions made for flower funds or special gifts are allowed. However, participation must be voluntary, and gifts should be of minimal value.

SECTION 3. SOCIAL MEDIA

The Nation has established requirements for the use of social media accounts for official purposes that applies to all Nation's employees with authority to use a social media account, and it includes reminders for all employees when using social media in a personal capacity.

The Nation utilizes social media in limited circumstances for defined business purposes. Social media is defined as a set of internet tools that aid in the facilitation of interaction between people online (i.e. Facebook, Linked In, Twitter, Snapchat, etc.) that may be used in furtherance of the department or program goals in support of the mission of providing services to the Nation and its' members. Requests for the creation of an official social media account must be submitted and authorized by Executive Leadership. Official social media accounts must abide by the requirements contained in this policy. Social media network access shall be limited only to those with a clear business purpose to use the forum.

A social media user in an official capacity is an employee who is communicating online when his/her supervisor assigns this activity as part of the employee's job duties. The social media user in an official capacity:

- uses department/nation branding, images, and/or logos on official social media accounts;
- verifies content to ensure the information is accurate, timely, relevant, and complete;
- protects nonpublic information, such as financial disclosure information, protected acquisition and personally identifiable information (including work product and conversations that are meant to be pre-decisional or internal to the department), by ensuring it is not disclosed through social media activities; complies with the laws related to the prohibition on the dissemination of nonpublic information.
- refrains from engaging in vulgar or abusive language, personal attacks of any kind, gossip, or offensive terms targeting individuals or groups; and refrains from posting any visual and audiovisual media that is vulgar or abusive, or offensive.

A social media user employed by the Nation is communicating in his/her personal capacity when he/she is acting on his/her own time and representing himself/herself and not the Nation. When using social media tools personally, it should not appear to others as though an employee is speaking for the Nation. Additionally, a social media user in a personal capacity should utilize good judgement and common sense and shall:

- follow the Rules of Conduct that govern the behavior of Nation employees which may extend to an employee's personal/private use of social media.
- refrain from discussing the Nation, their employees, or specific programs or departments and does not comment on work-related matters.
- not use department/nation branding, images, and/or logos on personal social media account.
- remember that the personal use of these tools during work hours is prohibited.

SECTION 4. ELECTRONIC MEDIA (i.e. computers, cell phones)

Electronic media is defined as desktop computers, laptops, handheld devices including but not limited to iPhone, blackberry, cell phones, etc. These items and all data transmitted through network servers are the Nation's property and must be maintained according to Nation's rules and regulations. Prior authorization must be obtained before any Nation property may be removed from the premises.

All electronic media must be kept clean and are to be used only for work-related purposes. The Nation reserves the right to inspect all Nation property to ensure compliance with its rules and regulations, without notice to the employee and at any time, not necessarily in the employee's presence.

All Nation's property and electronic media and files (including passwords) shall be returned to the Nation upon separation of employment.

SECTION 5. WORKPLACE BULLYING

The Jicarilla Apache Nation defines bullying as “repeated inappropriate behavior, either direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment.” Such behavior violates the Nation’s Chapter 7, Section 1 General Conduct of Employees, which clearly states that all employees are expected to maintain a level of behavior and conduct that is considered to be of the highest order and standard.

It must be noted that where an allegation of bullying is made, the intention of the bully is irrelevant. As with sexual harassment, it is the effect of the behavior upon the individual(s), which is important. The Nation considers the following types of behavior non-exhaustive examples of bullying:

- **Verbal Bullying:** slandering, ridiculing or maligning a person or his/her family; persistent name-calling which is hurtful, insulting or humiliating; using a person as the butt of jokes; making abusive and offensive remarks.
- **Physical Bullying:** pushing; shoving; kicking; poking; tripping; assault, or the threat of physical assault; damaging a person’s work area or property
- **Gesture Bullying:** non-verbal threatening gestures, glances which can convey threatening messages.
- **Mobbing:** bullying behavior carried out by a group rather than an individual.
- **Exclusion:** socially or physically excluding or disregarding a person in work-related activities

Responsibility of Individual Employee

Employee behavior and responsibility with regards to bullying fall into the four (4) areas:

1. Each employee is expected to and has the responsibility to refrain from or avoid behavior, which may be considered bullying.
2. An employee who bullies a fellow employee will be held personally responsible for their action and conduct.
3. No employee shall make false charges or claims of bullying toward another employee.
4. An employee who has been found to have bullied another employee is subject to disciplinary action, up to and including termination.

An employee who has been accused of bullying and does not participate in the investigation or voluntarily resigns prior to, or during the investigation may no longer be considered for re-employment by the Nation.

Responsibility of Director/Supervisory Personnel

Each Supervisor, Director, Executive Leadership, Court Administrator is responsible for maintaining a workplace free of bullying. This is accomplished by promoting a professional work environment and by addressing bullying with the same importance as with all other forms of employee misconduct.

Specifically, Directors and Supervisors must address any observed incident of bullying or complaint, with seriousness, and take prompt action to investigate it, report it and end it. All Directors and Supervisors are further expected to implement appropriate disciplinary action and observe strict confidentiality when handling bullying. These same actions are required in cases where an employee tells the supervisor about behavior considered bullying but does not want to make a formal complaint.

In addition, Directors and Supervisors must ensure that no retaliation will result against an employee making a bullying complaint.

Complaint Procedure

The Nation strongly urges the prompt reporting of all incidents of bullying, regardless of the offender's identity or position. Individuals who believe they have experienced conduct that they feel is contrary to the Nations' policy or who have concerns about such matters should file their complaints with their immediate supervisor, the Human Resource Office, Director or Executive Leadership or Court Administrator, before the conduct becomes severe or pervasive. Individuals should not feel obligated to file their complaints with their immediate supervisor before bringing the matter to the attention of a Director, or Human Resource. Reports of bullying will be promptly investigated.

SECTION 6. ANTI-HARASSMENT POLICY

The Jicarilla Apache Nation Government has established a strict policy prohibiting any employee harassment based on a lack of appreciation and respect for differences, e.g., gender, religion, ethnicity, race, sexual orientation, age, and disabilities, including implied or expressed forms of sexual harassment. This policy applies to employees during all phases of their employment—including recruiting, testing, hiring, upgrading, promotion or demotion, transfer, layoff and termination. It also covers any type of employment action, including those relating to salary, benefits, training, travel, and participation in sponsored business and social events.

Employees shall not be retaliated against by virtue of having brought a concern and/or complaint forward, and/or assisted in the investigation of such a complaint, under the provisions of this policy.

The Human Resource Office will promptly investigate complaints of such retaliation. Employee complaints shall be treated as confidential and will be shared only with those who have a legitimate need to know.

The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

- Verbal harassment includes comments that are offensive or unwelcome regarding a person's gender, religion, ethnicity, race, sexual orientation, age, and disabilities, including, slurs and negative stereotyping.

- Nonverbal harassment includes distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of gender, religion, ethnicity, race, sexual orientation, age, and disabilities or other protected status.

SECTION 7. SEXUAL HARASSMENT

The Jicarilla Apache Nation Government will not tolerate sexual harassment in the workplace by any of its employees. The Jicarilla Apache Nation Government seeks to provide a work environment free of all harassment. The Nation has established a policy prohibiting any harassment or sexual harassment based on pregnancy or related medical conditions, gender, religion, ethnicity, race, marital status, sexual orientation, age, and disabilities, including implied or expressed forms of sexual harassment. Harassment or sexual harassment of any Nation employees is strictly prohibited.

SECTION 8. SEXUAL HARASSMENT – DEFINITIONS AND PROHIBITED ACTIVITIES

The Jicarilla Apache Nation Government policy defines sexual harassment as:

- Verbal or physical sexual advances, requests for sexual favors, sexual flirtations or gestures, sexual innuendoes, sexually related comments or joking; humor and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, statements about other employees, even outside of their presence, of a sexual nature.
- Uninvited physical contact or touching, such as patting, pinching, brushing against;
- Non-verbal actions: suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, “catcalls”, “smacking”, or “kissing noises”.
- Comments regarding physical or personality characteristics of a sexual nature;
- Sexually oriented “kidding”, “teasing”, or jokes;
- Visual displays or communication in any media type (i.e. email, text, IMs); display of sexually explicit material, pictures or literature including but not limited to posters, signs, pin-ups or slogans of a sexual nature.

Verbal or physical conduct of a sexual nature constitutes sexual harassment when:

- submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, or
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- submission to or rejection of such conduct has the purpose or effect of interfering with an individual’s work performance or creates an intimidating, hostile or offensive working environment.

Sexual harassment may be considered to have occurred if any or combinations of actions listed above have occurred. Sexual harassment, usually a pattern, may be severe and overt; or subtle or even complimentary. Examples of the latter would be the use of greeting terms such as “honey”, “darling”, and “sweetheart”, and complimentary remarks such as: “that’s an attractive outfit”. “You really fill it out well”. The degree to which an employee is offended may vary from one individual to another depending on differing perceptions and values; nevertheless, it is a violation of Nation policy if such behavior affects the ability of an employee to do their job.

SECTION 9. RESPONSIBILITY OF INDIVIDUAL EMPLOYEES

Employee behavior and responsibility with regard to harassment fall into the six (6) areas enumerated below:

1. Each employee is expected to and has the responsibility to refrain from or avoid behavior, which may be considered to be harassment.
2. An employee who harasses a fellow employee will be held personally responsible for their action and conduct.
3. No employee shall make false charges or claims of harassment toward another employee.
4. An employee who has been found to have harassed another employee is subject to disciplinary action, up to and including termination.
5. An employee who has been accused of harassment and does not participate in the investigation or voluntarily resigns prior to, or during the investigation may no longer be considered for re-employment by the Nation.
6. If an employee believes they have been harassed, they should bring your complaint to your supervisor, Director, Executive Leadership, Court Administrator, or Human Resource Office as soon as possible after the incident.

SECTION 10. RESPONSIBILITY OF DIRECTORS/SUPERVISORY PERSONNEL

Executive Leadership, Directors, Court Administrator and subordinate supervisors are responsible for maintaining a workplace free of harassment. This is accomplished by promoting a professional work environment and by addressing harassment immediately

Specifically, Directors and Supervisors must report any observed incident of harassment or a complaint of harassment to the Human Resource Office. All Directors and Supervisors are further expected to implement appropriate disciplinary action and observe strict confidentiality. These same actions are required in cases where an employee tells the

supervisor about behavior considered harassment but does not want to make a formal complaint.

In addition, Directors and Supervisors must ensure that no retaliation will result against an employee making a sexual harassment complaint.

SECTION 11. HARASSMENT/SEXUAL HARASSMENT COMPLAINT PROCESS

The harassment and sexual harassment complaint process as required by the Jicarilla Apache Nation Government is presented below:

- A. Complaint.
 - All complaints should be reported to the Human Resource Office.
 - Employees are required to report complaints as soon as possible, usually within five (5) working days of the occurrence giving rise to the complaint.
- B. Incident Report. The Human Resource Office will compile an incident report which will include details of the incident, names of individuals involved and names of any witnesses.
- C. Investigation. Based on the incident report, an effective, thorough and objective investigation of the harassment allegations will be undertaken. The Human Resource Office investigator will conduct an investigation and submit a written report to Executive Leadership, Human Resources, President or Court Administrator, as appropriate.
- D. Determination of Action. Executive Leadership, Human Resources, President or Court Administrator, as appropriate, will determine appropriate action within ten (10) business days of receiving the report prepared by the Human Resource Office investigator.

SECTION 12. RESOLUTION OUTSIDE EMPLOYMENT RELATIONSHIP

It shall be the policy and practice of the Nation to resolve all cases of harassment and sexual harassment within the employment relationship. However, nothing in the harassment policy is intended as a waiver of an employee's civil or criminal rights against another person, in that person's capacity as an individual.

Further, nothing in the policy is intended to be, or shall be interpreted as, a waiver of the Jicarilla Apache Nation's sovereign immunity.

SECTION 13. FALSE AND FRIVOLOUS COMPLAINTS

An employee making a knowingly false and/or frivolous claim of harassment or sexual harassment against another employee or supervisor, where such action is unsubstantiated,

will be deemed to have committed a serious offense that is punishable by a severe disciplinary action or termination. This may occur where the accuser is using a harassment complaint to accomplish some end other than stopping harassment. It does not refer to charges made in good faith and which cannot be proven.

SECTION 14. RETALIATION

Retaliation is defined as any kind of negative action against a current or former employee that takes the form of punishment, and/or creates a hostile, threatening or uncomfortable work environment as a result of an employee's reported complaint. The Nation will not retaliate against employees for filing a complaint and will not tolerate or permit retaliation by management, employees or co-workers. The Nation, consistent with Personnel Code, is committed to the view that employees are entitled to pursue a grievance or investigation without fear, restraint, intimidation, interference, discrimination or reprisal. There will be no retaliation against any employee who files a grievance or participates in good faith in any aspect of the grievance or investigative process.

Any person found to have retaliated against another individual will be subject to appropriate disciplinary action, up to and including termination.

Disciplinary action may also apply to employees who have repeatedly filed false or unreasonable complaints and are proven to have been intentionally lying, falsifying evidence, acting maliciously or for personal benefit.

SECTION 15. CHILDREN IN THE WORKPLACE

The Nation recognizes that childcare is not always available to employees with children. Children of employees may be allowed in the tribal offices during working hours on a limited, emergency, case-by-case basis.

The below steps should be completed in advance in order for an employee's child to be allowed in the workplace:

1. The employee should receive permission from their Supervisor, in writing and in advance, which includes the dates and times that the child is approved to be in the workplace.
2. Upon receiving approval from the employee's supervisor, the employee must bring the written approval to Risk Management for review.
3. The employee must sign a waiver in Risk Management acknowledging the risks of bringing children in the workplace and agreeing to indemnify and hold harmless the Nation of any liability or claims.

The employee will provide line of sight supervision of the child at all times while they are present in the tribal office. Children will not be left alone at any time or left with other employees. The employee will be responsible to keep their child from all disruptive behavior and the employee will be responsible to clean up after their child. Employees must ensure that

work health and safety laws are followed at all times when bringing children into the workplace.

All complaints from other employees shall be made to the employee's supervisor. At no time will the child be allowed to disrupt the work of other employees.